Annex

MINISTRY'S RESPONSE TO FEEDBACK RECEIVED FROM PUBLIC CONSULTATION ON THE EXCLUSIONS UNDER SECTIONS 440(5)(a) OF THE INSOLVENCY, RESTRUCTURING AND DISSOLUTION ACT 2018 ("IRDA")

For the avoidance of doubt, references to specific regulations in this document refer to regulations in the version of the subsidiary legislation that was released for public consultation between 23 March 2020 and 13 April 2020. A copy of the aforementioned public consultation version of the subsidiary legislation may be downloaded at https://www.mlaw.gov.sg/news/public-consultations/public-consultation-on-section-440-of-insolvency-restructuring-dissolution-act.

	Content	Feedback/Suggestion(s)	MinLaw's Response to the Feedback
1.	Retrospective application of section 440 of the IRDA	Section 440 should not apply retrospectively. If section 440 were to apply retrospectively, there should be a transitional period for contracts entered into before the date on which IRDA comes into force.	A transitional provision is promulgated under section 527(2) of the IRDA, which provides that section 440 does not apply to or in relation to any contract entered into before the date of commencement of that section. In other words, section 440 of the IRDA will only apply prospectively to contracts entered into on or after 30 July 2020.
2.	Clarification on scope of section 440 of the IRDA	Section 440 provides that contracts cannot be terminated "*by reason only that the proceedings are commenced or that the company is insolvent*". To clarify if section 440 only prohibits termination where the party seeking to terminate is relying on a contractual right that permits termination by reason of rehabilitative proceedings having commenced or the company being insolvent, and not where the party is relying on a contractual right to terminate for other reasons.	The restriction under section 440 only applies where the party seeks to exercise its contractual rights on the basis that restructuring proceedings have commenced or that the company is insolvent The general policy intent is set out in the Second Reading speech of the Bill.
3.	Consistency with exclusions for moratoria under sections 64, 65, 95 and 96 of the IRDA relating to schemes of arrangement and	There should be consistency between the scope of the exclusions from section 440 and the exclusions from the scheme of arrangement and judicial management moratoria. In particular, the ability to net-out transactions and collateral enforceability are important to, amongst others, derivative transactions. Any inconsistency between the scope of the exclusions would not be desirable. Netting and collateral	The exclusions under section 440 are aligned with the exclusions from the moratoria in schemes of arrangement and judicial management.

	judicial management	enforceability go hand in hand, and the considerations for netting enforceability apply equally to the ability to enforce collateral in a timely manner. Any disjunction between the scope of the exclusions for section 440 and the moratoria would create significant difficulties for the industry.	
4.	Interaction with UNCITRAL Model Law on Cross-Border Insolvency	The legislation should be clear that agreements and arrangements carved-out from the *ipso facto* restrictions and moratoria provisions will be protected from being affected by the court pursuant to Art 1(3) of the Third Schedule of the IRDA. It is crucial particularly for the derivatives industry in the context of cross-border insolvencies, as the enforceability of netting and set-off rights are very much driven by local insolvency regimes, which parties cannot contract out of. Art 1(3) of the Third Schedule of the IRDA provides that the court must not grant any relief, modify any relief already granted, or provide any cooperation or coordination under the Model Law if such relief, modification, cooperation or coordination would be "prohibited" under the IRDA or any other written law as may be prescribed by the Ministry. It is not clear, however, as to whether a court may, in giving recognition and assistance to foreign insolvency proceedings under the Model Law, take the view that netting and set-off rights can be stayed on the basis that this is not technically "prohibited" by the IRDA (as it is merely the subject of a carve-out under the moratoria and ipso facto provisions).	While the language of Art 1(3) uses the term "prohibited", a "technical" reading of this term is not supported. Art 1(3) (and the Model Law generally) only facilitates foreign proceedings and foreign officeholders only to the extent allowed under Singapore law. The exclusions from the moratoria and *ipso facto* provisions are intended to apply in a Model Law proceeding.
5.	Definition of "commodities lending or borrowing contract"	The definition of "commodities lending or borrowing contract" should be replaced with the following definition: "commodities lending or **repurchase** contract" means a contract under which a person (called in this definition the transferor) transfers **the legal or beneficial interest in** commodities to another person (called in this definition the transferee) subject to a commitment that the transferee will return equivalent commodities **(or other commodities or cash)** at some future	Parts of the suggested language have been incorporated into the revised definition of "commodities lending or repurchase contract" under regulation 2 of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020. The reference to "*(or other commodities or cash)*" was not included, as a lending or repurchase contract is premised on the return of equivalent commodities at a future date or upon request.

		date or when requested to do so by the transferor (new additions in bold and underlined). The rationale for including the phrase "*the legal interest in*" is to ensure clarity as it is usually the legal interest that will be transferred in such contracts in practice. Additionally, the beneficial or equitable interest was also proposed to be captured in the drafting of the definition, to take into account structures where the equitable instead of legal interest in commodities is transferred. The phrase "or repurchase agreement" is proposed to replace "or borrowing contract" is to ensure alignment with the defined term used for securities, i.e. "securities lending or repurchase agreement".	
6.	"derivatives contract", "master netting agreement", "securities contract" and "securities lending or repurchase agreement" have the respective meanings given by regulation [2] of the Insolvency, Restructuring and Dissolution (Prescribed Arrangements and Proceedings) Regulations 2020 (G.N. No. S X/2020);	Various respondents suggested that the definition of "*derivatives contract*" that does not specify an exhaustive list of underlying things should be adopted. Otherwise, to consider including underlyers for cryptocurrency, longevity or mortality-based transactions, and to include a new provision to include or specify new underlyers where necessary.	The definition of underlying things has been revised to include "*any other thing by reference to which the value of a derivatives contract is determined or from which the value of a derivatives contract is derived*". See regulation 2 of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020, read with regulation 2 of the Insolvency, Restructuring and Dissolution (Prescribed Arrangements and Proceedings) Regulations 2020.

7.	Request for additional exclusion	Contracts relating to the "back-end transactions" i.e. between the intermediary members/participant of an exchange/clearing house and the end client should be exempted. An exclusion is requested in respect of agreements to clear or settle transactions related to derivative contracts. The rationale for the proposal is: i. If it were otherwise, it exposes the intermediary party (such as the intermediary clearing broker), to the risk of not being able to terminate back-end contracts with end clients, whilst being liable to the clearing house for the front-end transactions that are terminated. This may result in systemic risk arising in the Singapore financial market; and ii. There should be no difference in treatment between the principal and agency model of clearing arrangements. By excluding derivatives without these carve-outs, it will be much costlier for overseas players to enter into derivatives trades with Singapore counterparties, putting Singapore entities at a disadvantage.	A new exclusion has been provided to address this feedback. See regulation 3(*j*) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020.
8.	Request for additional carve out for any capital markets product between an approved exchange, approved clearing house, recognised clearing house, recognised market operator or the Depository (each as defined under the	To exclude the following category of contracts: *"(e) any capital markets product between an approved exchange, approved clearing house, recognised clearing house, recognised market operator or the Depository (each as defined under the Securities and Futures Act) and its members, which is subject to the relevant rules mentioned in paragraphs (a) to (d)*;" The clearing system and clearing houses are of systemic importance. The ability to terminate the capital market products subject to such rules should also be allowed. This ability to do so preserves the smooth functioning of the clearing system. As each contract is novated such that the clearing house becomes a party to each capital markets product	A new exclusion has been provided to address this feedback. See regulation 3(*k*) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020.

	Securities and Futures Act) and its members	contract/transaction, there is a risk to the clearing house if the clearing house is unable to terminate the contract.	
9.	Contract between the operator of a designated system and a participant of the designated system containing or incorporating by reference the designated system operating rules of the designated system	The current wording of the draft regulation 3(*e*) may not scope in the entire gamut of contracts in this class which relates to certain payment systems. The operating rules of a designated system under the Payment and Settlement Systems (Finality and Netting) Act, Chapter 231 of Singapore may not always be embodied in the form of a "*contract between the operator of a designated system and a participant of the designated system*". The current wording is too restrictive and certain contracts governing certain designated systems (or soon-to-be designated systems), or contracts related to the provision of services within a designated system will fall out of scope unintentionally if draft regulation 3(*e*) is not further refined.	The intent of this exclusion is to protect the rules of a designated payment system. This draft regulation has been adjusted, however, taking into consideration the limitation to a contract "*between the operator of a designated system and a participant of the designated system*" is too restrictive. There could be other parties involved (e.g. settlement institutions, Singapore Clearing House Association, MAS as the custodian to the collateral of participants, indirect participants, etc.) as a contracting party with the operator of the designated system or amongst themselves inter se. See regulation 3(*e*) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020. However, the draft regulation has not been adjusted to include soon-to-be/yet-to-be designated systems, given such systems have not been Gazetted. An exclusion for such systems could not be justified.
10.		In respect of contracts relating to payment service providers, to carve out payment processing transactions, such as those that have an impact on merchant acquirers; and more broadly, scheme networks (such as credit card networks) to enable merchant acquirers to take the course of action which they determine to be most appropriate in the circumstances of the case. Specifically, draft regulation 3(*e*) as presently drafted did not address the above issue. The business processes and risks are borne by a merchant acquirer in its relationship with the merchant, in a contract between these two parties. End-to-end (from issuing bank to credit card scheme to merchant acquirer to merchant) merchant acquirer contracts would not be covered by the scope of draft regulation 3(*e*) as presently drafted, which only accords	The exclusions in this set of subsidiary legislation recognise that there are certain categories of contracts where the *ipso facto* restriction would have a disproportionately adverse impact on markets, and in this specific context, designated systems. Merchant acquirers (or more broadly scheme network operators) are not designated systems under the Payment and Settlement Systems (Finality and Netting) Act. While the *ipso facto* restriction would affect merchant acquirers, it does not result in disproportionately adverse impact to the operations of designated systems. Therefore, an exclusion could not be justified.

		protection for contracts between an operator of a designated system (defined with reference to the Payment and Settlement Systems (Finality and Netting) Act), and the participants of the designated system.	
11.	(*f*) any derivatives contract, [securities contract,] master netting agreement, securities lending or repurchase agreement, commodities lending or borrowing contract, margin lending agreement or spot contract, that contains a netting arrangement or set-off arrangement;	The qualification "*contains a netting arrangement or set-off arrangement*" for instruments including margin lending agreements, securities contracts and derivatives contracts should be removed. The rationale from the various respondents is as follows: i. In practice, not all margin lending agreements contain netting or set-off arrangements. ii. There may be several categories of legal contracts (such as some non-industry standard agreements, or even foreign exchange spot trades which are not done under a master agreement or margin lending agreements) which do not have a netting arrangement or a set-off arrangement in them. However, it may necessary for these legal contracts to have *ipso facto* clauses to allow parties to manage counterparty risks. In the event of a default, section 440(1) may lead to the further compounding of losses of the non-defaulting party as the non-defaulting party would not be able to effectively reduce its own exposure in respect of having to fulfil its contractual obligations. iii. Under the draft regulations 3(*a*) to (*d*), contracts which are traded, cleared or subject to rules of approved exchanges, approved or recognised clearing houses, recognised market operators, licensed trade repositories and licensed foreign trade repositories are excluded. This would appear to include derivatives contracts (e.g. listed options). In the interests of consistency, it is suggested that all derivatives contracts be excluded from section 440(1) (and not just derivatives	The term "*contains a netting or set-off arrangement*" has been removed in respect of margin lending contracts, securities contracts and derivatives contracts. This allows timely enforcement of rights under these contracts, which are not dependent on the existence/provision of a netting or set-off arrangement. See regulation 3(*f*) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020.

		contracts that contain a netting arrangement or set-off arrangement). iv. For avoidance of doubt, the intention is not for certain contracts that fall outside a netting set or arrangements (such as FX spot) to be carved-out from section 440.	
12.	(*g*) any contract that creates a mortgage, charge, pledge, lien or other type of security interest that is recognised by law, being a mortgage, charge, pledge, lien or other security interest that secures an obligation under a contract or an agreement mentioned in paragraph (f);	The exclusion under this limb should be expanded for security interests securing obligations under all eligible financial contracts The rationale is that draft regulation 3(*g*) should be extended to cover security interests securing obligations under all eligible financial contracts, instead of only those securing obligations under the contracts or agreements under draft regulation 3(*f*).	Where a particular financial contract has been excluded under this subsidiary legislation, security interests and credit support arrangements (see S/N 13 below) securing obligations under those excluded financial contracts under this subsidiary legislation have also been exempted. See regulation 3(*m*) and regulation 3(*n*) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020.
13.		The exclusion under draft regulation 3(*g*) should be extended to cover credit support arrangements such as title transfer collateral arrangements that secure or have the effect of securing the obligations under derivatives transactions but would not appear to be "*security interests*" that fall within draft regulation 3(*g*). The two most common alternatives used in the market for providing credit support is by way of providing a security interest or by way of a title transfer. There are also other methods of credit support which may be provided by way of a letter of credit or guarantee.	Where a particular financial contract has been excluded under this subsidiary legislation, any contract providing for a guarantee, letter of credit, title transfer of assets, or other credit support arrangement to secure obligations under those excluded financial contracts under this subsidiary legislation has also been exempted. This recognises the importance of such credit support arrangements, which are generally not regarded as security interests at law. See regulation 3(*n*) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020.
14.	(*i*) any contract or agreement that is —	The requirement for the contract to be directly connected to the covered bond should be removed, i.e. to delete the word "*directly*".	The term "*directly*" has been removed. See regulation 3(*h*)(ii) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020.

	(i)a covered bond; or (ii)directly connected with a covered bond or the issuing of a covered bond;	The deletion would allow supporting contracts (e.g. contracts with valuers who assess cover pool assets) to be included within the scope of the exemption, as such contracts are also important in ensuring continuity in the running of covered bond programmes. This is because in respect of the issuance of covered bonds, and bonds (e.g., securitisation bonds), the provisions which deal with changes following the insolvency of a counterparty are often not in the actual bond document itself, but rather other documentation entered at the same time.	Additionally, on the intended difference between "connected to (in respect of covered bonds)" and "*directly* connected to (in respect of debentures)", see comment at S/N 15 below.
15.	(*j*) any contract or agreement that is, or that [governs][is directly connected with], a bond;	The use of the phrase "*is directly connected* with" is preferred over "*governs*". The rationale is that the former would encompass contracts including those relating to the underwriting of a bond, as well as to security and credit support arrangements that are used in bond issuances. This ensures that exemption covers more than just the contracts that govern the bond (such as the terms and conditions of such a bond), but also the ancillary contracts of the bond arrangement.	The term "*is directly connected with*" has been used. See regulation 3(*i*) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020. Separately, the term "directly" is retained in the exclusion for debentures, but omitted in the exclusion for covered bonds (see S/N 14 above) to reflect a policy distinction between their different uses and contexts. Contracts related to a covered bond or the issuing of a covered bond are an ascertainable and limited pool of contracts, which are important for continuity in the running of covered bond programmes. Hence, contracts related to the covered bond (which would cover agreements with valuers to assess cover pool assets and other service agreements relating to the covered bond programme) are excluded. In contrast, the term "directly" was included as a qualifier to the debenture exclusion, given debentures are ubiquitous and to avoid over-inclusion. The policy intent is that directly connected contracts, necessary for the operation of the debenture, such as those relating to underwriting, security and credit arrangements are excluded.
16.		The word "debenture" should be used instead of "bonds" for draft regulation 3(*j*).	The term "*debenture*" has been used, in order to include other types of instruments, such as perpetual securities. See regulation 3(*i*) of the Insolvency, Restructuring and

		This is because the word “bonds” is not defined in the IRDA, the Companies Act, nor the Securities and Futures Act (“**SFA**”). Therefore, for clarity as well as consistency across the various legislation, respondents suggest that the term “debenture” as it is defined in the SFA. If the exemption is confined narrowly for bonds, perpetual securities would not have the benefit of such exemption. By using the term “debenture” as defined in the SFA, the proposed exemption would cover debt securities such as perpetual securities in addition to bonds. Perpetual securities are used by many high-grade issuers as legitimate means of broadening their fund-raising platforms. Perpetual securities, unlike vanilla bonds, do not usually contain an extensive set of covenants or events of default. Distribution is deferrable under perpetual securities and enforcement events entitling perpetual security holders to institute winding-up proceedings against the issuer are usually limited to two: (a) non-payment (only if distributions are indeed due, and therefore does not include permitted deferrals under the terms and conditions) and (b) an order is made or an effective resolution is passed for the winding-up (which term “winding-up” when used in bond documentation may include judicial management) or dissolution of the Issuer. If perpetual securities are not exempted, this will further reduce the already limited remedies available to holders of perpetual securities.	Dissolution (Prescribed Contracts Under Section 440) Regulations 2020.
17.	Combination of contracts	In respect of arrangements which cover a combination of "*eligible financial contracts*" and other transactions, MinLaw should clarify whether the eligible financial contracts would still have the benefit of the carve-out or whether the entire netting arrangement would benefit from the carve-out (or the entire arrangement would be subject to section 440). The concern is that if the entire arrangement is subject to section 440, it could destroy the benefit of the exclusions. For example, in a case where eligible financial contracts and non-eligible financial contracts are entered into under a single ISDA	There is an exclusion for master netting agreements. See regulation 3(*g*) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020. This approach is similar to US and Canada. Separately, if certain contracts are excluded as eligible financial contracts under this subsidiary legislation, the combination of such eligible financial contracts with other non-eligible financial contracts is not intended to adversely

		Master Agreement, it is not clear whether termination would be permitted in respect of the eligible financial contract, since the premise of the ISDA Master Agreement is that it operates as a "single agreement". Respondents indicated that for operational and practical reasons, it was not always possible to segregate eligible financial contracts from other types of contracts and ring-fence them in separate netting arrangements as in many cases, financial institutions manage their relationships with clients as a whole. The respondents also highlighted that it is common for netting arrangements to provide that termination may only take place in respect of all but not some of the transactions under the arrangement this is because allowing termination of some transactions (partial termination) can potentially introduce other negative consequences. Respondents thus proposed that where eligible financial contracts are entered into under a broader agreement or arrangement that also includes non-eligible financial contracts, termination should still be permitted in respect of the eligible financial contracts. Respondents also proposed to include specific provisions in the regulations for this, as in the absence of clear statutory language, there is considerable uncertainty as to whether the eligible financial contracts under the arrangement would have the benefit of the carve-outs. The concern is that the uncertainty could weaken the strength of netting enforceability opinions, which is a key factor in determining whether financial institutions can rely on netting arrangements for regulatory capital relief.	impact or undermine the exclusions provided in respect of those eligible financial contracts that have been excluded.
18.	Commodities	A separate limb on commodities contracts should be included, for instance, "any contract or agreement that is directly connected with a commodity" (similar to the wording in draft regulation 3(*j*)). The rationale for the feedback was that an adverse price change in a commodity while a party is stayed from enforcing its rights	The proposal for an exemption for any agreement directly connected with a commodity is too broad, and not justifiable. A narrower category of "commodities lending or repurchase contract" is excluded under regulation 3(*g*) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020.

		under a commodity contract could cause that party to suffer financially, potentially causing its insolvency in turn. This potential for chain reaction is particularly worrisome in the commodities market due to the volatility of commodities prices.	
19.	Securitisation transactions	There should be exclusions for "contracts connected with securitisation transactions" (i.e. for the contracts connected to the securitisation), in addition to an entity-level carve-out for securitisation SPVs. The rationale for the proposal is that as a matter of principle, securitisation transactions which utilise SPVs (regardless of whether or not they are ASPVs) ought to fall within the prescribed securitisation transaction exclusion because the legislative reform is intended to provide more leeway to revive a distressed operating business. This additional leeway is not required for an SPV involved in a securitisation transaction which does not carry on an operating business.	A new exclusion has been provided to address this feedback. See regulation 3(*l*) of the Insolvency, Restructuring and Dissolution (Prescribed Contracts Under Section 440) Regulations 2020.
20.	Proposed exemption of loan contracts under s 440(5)(a)	Loan contracts should be exempted. The rationale for the proposal is that a substantial portion of loans in Singapore are from financial institutions. Financial institutions are reputable, reasonable and responsible lenders, and they understand that legitimate restructuring efforts eventually benefit the ailing company's creditors. Instead of a blanket ban on *ipso facto* clauses, financial institutions, having expertise in risk analysis, ought to be given the party autonomy to determine whether to enforce their ipso facto rights against an insolvent company.	The proposal for an exclusion for loan contracts is too broad, and not justifiable. There are various safeguards in place (such as the ability to apply for relief on the basis of significant financial hardship under section 440(4) of the IRDA). Additionally, the absence of an exclusion does not prevent termination or exercise of contractual rights where the borrower breaches a separate contractual obligation e.g. failure to repay loan obligations.
21.	Proposed exemption for contracts relating to outsourcing	There should be an exclusion for outsourcing contracts. Financial institutions which are regulated by MAS are subject to regulatory requirements on outsourcing. These requirements are included in the Guidelines on Outsourcing. To ensure that financial institutions have adequate control over the outsourcing arrangements, it is a requirement of the	The proposal for an exclusion for outsourcing contracts is too broad, and not justifiable. The types of contracts falling within the scope of this category of "outsourcing contracts" are not generally of nature of financial contracts which may be prescribed under section 440(5)(*a*) of the IRDA. Moreover, the absence of an exclusion does not prevent termination or exercise of contractual rights where the service provider

		Guidelines that the financial institution must conduct due diligence on its service providers, including in respect of its financial strength, and to include contractual terms where the financial institution should have the right to terminate the outsourcing agreements when, inter alia, the service provider goes into judicial management, becomes insolvent or goes into receivership. Outsourcing arrangements could cover a variety of services, including but not limited to IT services, delegation of fund management services, accounting services, business continuity and disaster recovery functions and activities, and back-office operations. The objective of the Guidelines is to ensure that a regulated financial institution's risk profile is not increased by reason of the outsourcing of services.	breaches a separate contractual obligation e.g. failure to perform.
22.	Proposed exemption for "cash pooling"	There should be an exemption for cash pooling. Cash pooling structures are developed so that the overall deposit balances and liabilities of a group of companies to the bank can be pooled together. This would enable the group to obtain better terms, and banks providing such services would be able to reduce exposure by being able to have recourse to collective deposits of the group of companies. There would also be the ability to exclude members of the group who do not meet certain requirements e.g. if it is insolvent. The introduction of section 440 would limit the ability to carry out cash pooling. The recourse to the deposits of the group of companies (in respect of which a scheme of arrangement or judicial management has commenced) may be impeded as there the ability to accelerate liabilities owing is impeded; and this would affect the mechanics and the economics of cash pooling.	The proposal to exclude cash pooling is not accepted. Cash pooling is a manner of structuring financing for a group of companies and does not appear to be a type/category of financial contract per se.

23.	Proposed exclusions for banks and insurers	There should be an entity-level exclusion for banks and insurers from the definition of "company" for the purposes of section 440(6) of the IRDA. In respect of banks and insurers, the resolution regime is the more appropriate form of restructuring as it is specifically tailored to take into account the considerations that arise in respect of the insolvency of banks and insurers. It is consistent with global standards, and subject to rigorous safeguards to balance the interests of the bank or insurer, its customers, regulators and creditors. By providing an entity-level carve out for banks and insurers (or alternatively, by aligning section 440 with sections 83 and 84 of the MAS Act), this would give counterparties certainty when dealing with bank and insurer counterparties that their set-off and netting rights would be protected regardless of the form of restructuring proceedings the bank or insurer becomes subject to.	The proposal to exclude banks and insurers is not accepted. First, section 440 neither prejudices nor adversely constrains the possibility of a bank or insurer being placed into the resolution regime. Second, in the event the bank or insurer is not placed into the resolution regime, that particular bank or insurer may attempt to restructure by way of a scheme of arrangement. In such an instance, section 440 may be useful in facilitating the restructuring.
24.	Proposed exclusions for covered bond SPVs and securitisation SPV	There should be an entity-level exclusion for Covered Bond SPVs and Securitisation SPVs/companies from the definition of "company" for the purposes of section 440(6) of the IRDA. The feedback suggested that the relevant entity-based exclusions for the purposes of the moratoriums may be mirrored.	These proposals have been accepted. See Insolvency, Restructuring and Dissolution (Prescribed Companies under Section 440) Order 2020.