



The Need for Proactive Asset Tracing Amid COVID-19

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Overview: Impact on Businesses



Quick Poll

Overview: Impact on Businesses



Severe Impact on Economic Growth in 2020/21

- World economy expected to contract by 3% (IMF, April 2020)
- Asian economies expected to witness twenty year lows
- Recovery in 2021 likely to be strong but mainly due to a weak base
- There is permanent loss in GDP



Severe Stress Expected on Various Sectors

[Kroll COVID-19 Heat map](#) suggests extreme stress and long recovery period for:

- Aviation
- Real Estate
- Construction material
- Travel & Tourism
- Media
- Commodities like steel, cement, etc.



Increase in Non Performing Loans Expected in the Region

The rise in NPLs for banks in APAC is estimated to be between USD 500 Bn to USD 700 Bn in 2020

- **India** – 10 to 12% of the loan book
- **China** – Stress sectors to see multifold increase
- **Australia** – To touch the highs of 2008 crisis
- **Japan** – Growth in bankruptcies (119 have filed)



Corporates & Financial Institutions Exposed to Risks Due To COVID-19

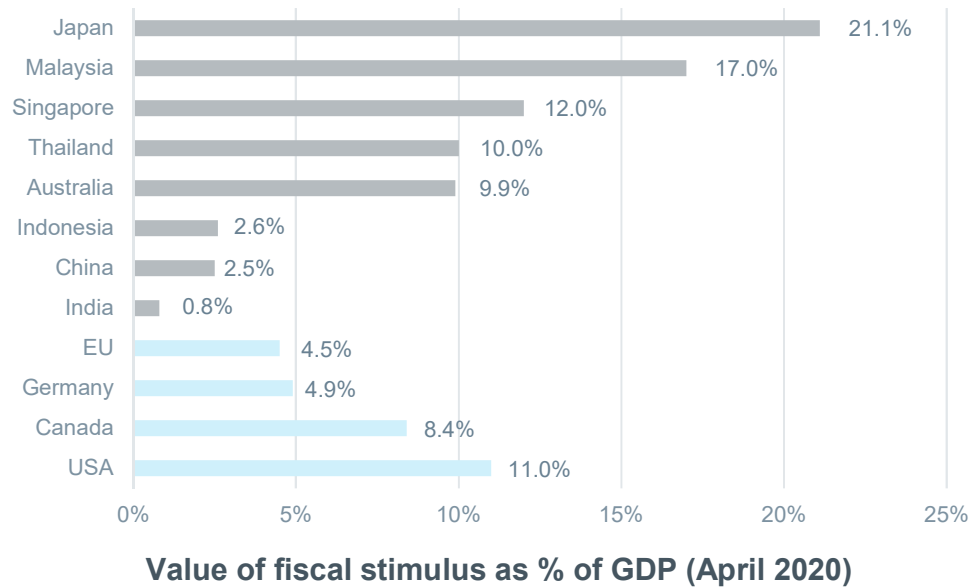
- Willful delay and defaults with respect to payment of debt
- Contractual Breaches - commercial and employee contracts
- Use of force majeure risk clause in contracts
- Frauds by companies in financial reporting
- Third party frauds and employee frauds
- Cyber frauds

Early Trends in APAC



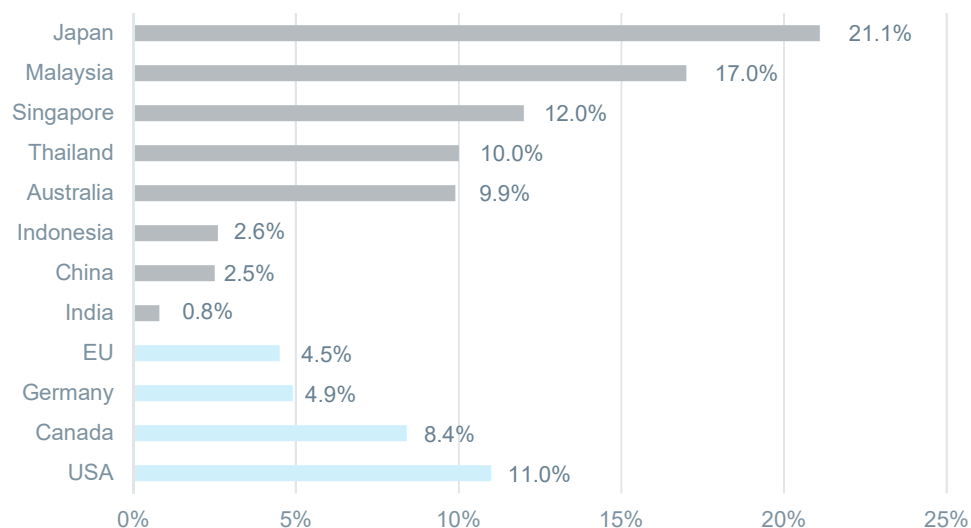
Quick Poll

Early Trends in APAC



- **Why this is different from the 2008 financial crisis**
 - Natural v/s Man Made
 - Truly global
 - Supply Chain v/s Demand
 - Science v/s Fiscal Stimulus
 - Health v/s Jobs

Early Trends in APAC



Value of fiscal stimulus as % of GDP (April 2020)

- Why this is different from the 2008 financial crisis

- Natural v/s Man Made
- Truly global
- Supply Chain v/s Demand
- Science v/s Fiscal Stimulus
- Health v/s Jobs

- Stimulus includes moratorium on loan repayments - **potential increase in willful defaults**
 - One third companies have already availed moratorium in India
 - Courts taking lenient view on defaulters
- Fund raising has been significantly affected – **more complex and opaque structured funding**
 - In Japan, 90% of companies scheduled to list their stocks cancelled IPOs in April
 - LPs are reviewing their commitments to GPs with almost 25% expected to reduce funding
- Projecting revenue/profitability will be difficult – **financial misreporting**
 - Delay in reporting of financial statements
 - Compromise on board meetings and AGMs
- Compromise in processes - **increase in employee and third party frauds during lockdown**
 - Systems, processes and technology hasn't been tested for COVID19 equivalent event
 - Cyber risks are peaking
- Contract breaches – **more disputes, litigations and arbitrations**
 - Arbitrariness of usage of force majeure already being tested

Quick Poll

War Stories from the Region



War Stories – Greater China (Shareholder Dispute)

CLIENT CHALLENGE

Client:

Hong Kong conglomerate

Client Requirement:

- Multijurisdictional asset tracing investigation
- To support enforcement efforts of a civil judgment of US\$2.8 billion arising from a shareholder dispute in the aftermath of the global financial crisis.

KEY ACTIVITIES

Investigative activities took place in regions such as

- **Greater China**
- **North America**
- **Japan**
- **Southeast Asia**

OUTCOME

Evidence generated by Kroll helped the client recover a significant portion of the judgment.

KEY TAKEAWAY

- Importance of **human element**: Relationship mapping crucial
- **Local expertise & in-depth knowledge** of local filing requirements in different jurisdictions pivotal
- Use of **investigative and advisory** skillsets involved

Early Warning

- Unwilling to share operational details & financial results.
- Staggering increase in operating costs & CAPEX
- Significant AR buildup from large contracts

War Stories – Australia (Third Party Default)

CLIENT CHALLENGE

Client: Multinational bank

Subject: Notable commodities trader

Context: Collapse of commodity prices leading to significant default. High number of creditors. Client largely unsecured

Scope:

- Identify unencumbered assets associated with the Subjects
- Identify dissipation of assets
- Collect information on potential fraud and modus

KEY APPROACH

- Review of dozens of companies directly affiliated with Subject, hundred of group
- **Detailed mapping** of family and their presence in award-friendly jurisdictions, chiefly Australia
- **Extensive social media research** of patriarch, extended family members
- **Systematic enquiries** with industry sources, financial industry sources, current/ex-employees, socialites
- **Systematic analysis** of checks with vessel and property registries across jurisdictions

OBSERVATIONS

- Australia, especially the property market, used as a stable, safe “storage” location for family assets around APAC
- Useful leads and source information about a Subject one country can be developed in another – signaling the importance of **a multijurisdictional approach**
- In cases with multiple creditors, “low hanging fruit” won’t help. A **creative, experienced team** is critical

Early warning

- History of opaque management and minimal public reporting despite highly credible auditors and advisors
- Sale of significant company and family assets

War Stories – India (NPL)

CLIENT CHALLENGE

Client: Large bank in India

Subject: Indian businessman with multi billion dollar borrowing backed by personal guarantee

Context: Material weakening in performance of operating companies eventually making them NPL

Scope:

- The Client wanted to take control of assets and sell as Subject was likely to file for bankruptcy.
- Ordered a global asset search on the individual

KEY APPROACH & OBSERVATIONS

- **Identifying ultimate beneficial ownership (UBO)** of 500+ companies with cross holdings and SPVs in multiple jurisdictions
- **Related party transactions** with non operating companies and **frequent change in ownership of companies & assets**
- **Unaccounted movements of funds** to Singapore, HK, Dubai, UK, USA
- **Tracking the money** was the most important criteria

OUTCOME

Identified more than 200 assets affiliated with the Subject with an estimated value of over USD 250 Mn

EARLY WARNING

- Borrow funds in better performing companies and immediately transfer to other group companies
- Constant introduction of new group companies
- Purchase of unrelated fixed assets
- Relatives with very limited or no business experience in critical roles, especially fund raising

War Stories – India (Dispute and Arbitration)

CLIENT CHALLENGE	KEY APPROACH & OBSERVATIONS	EARLY WARNING
<p>Client: Multinational</p> <p>Subject: Owners of a large Indian business</p> <p>Context: Dispute between Client & Subject. Subjects suspected to claim inability to pay.</p> <p>Scope:</p> <p>The Client wanted to specifically identify assets associated with the Subjects including assets sold over the last 18 months (since dispute). The Client was keen to share the details with the court</p>	<ul style="list-style-type: none">• Mapping already disclosed assets• Algorithm led litigation searches of all 90,000+ courts, tribunals, quasi judicial authorities• Complex ownership structures with 5-10 ownership layers• Ultimate owners identified to be proxies – drivers, group executives and accountants• Low profile individuals on the board & as nominal shareholders <p>OUTCOME</p> <p>Identified real estate assets worth USD 100 Mn</p> <p>USD 70 Mn of art as personal wealth</p>	<ul style="list-style-type: none">• Series of whistle blower allegations which were public• Diversification into completely unrelated businesses• Expensive cross border acquisitions• Hiring and firing of very expensive human resources• Material increase in compensation of owners and large payouts prior to the transaction

War Stories – Singapore (NPL)

CLIENT CHALLENGE

Client: International Development Finance Organization and other financiers (“Consortium”)

Subject: Large global trader (“Trader”)

Context: Subject claimed off-takers of goods are unable to pay due to material weakening in finances. Client was suspicious about legitimacy of the off-takers and the underlying trades

Scope:

- Determine if the buyers & trades are genuine & actual
- Identify assets of Trader and off-takers

KEY APPROACH

- To identify UBO: Background check of the Subject & the off-takers in **four jurisdictions**
- Review documentation related to the trades to identify gaps and red flags
- Verify the documentation with port authorities in relevant jurisdictions
- Verify other information provided by Trader during the KYC process to identify instances of intention to defraud
- Asset tracing of Trader and off-takers in creditor friendly jurisdictions, focusing on financially healthy subsidiaries

OBSERVATIONS

- Significant links between off-takers including common directors
- Inability to contact the off-takers at the office addresses
- Link between Subject and three key off-takers identified in 25 old incorporation documents
- Poor reputation of the Subject in the international trading market. Off takers unknown in the trading market despite large trades ostensibly undertaken

Early warning

- Value of collateral held by the Consortium had deteriorated, and had significant gaps to begin with
- Consortium had negligible data on the off-takers even though it had exposure to liabilities of the Trader
- Trader unwilling to provide additional transportation/shipment documents

War Stories – Singapore (portfolio company fraud)

CLIENT CHALLENGE

Client: Leading regional private equity fund (“PE fund”)

Subject: Privately held company active in retail

Context: Subject company performance had deteriorated substantially, and Client believed company and founder were siphoning funds to themselves and to other subsidiaries

Scope:

- Determine if there were indications of wrongdoing and misappropriation of funds by founder
- Identify assets of founder and link to source of funds

KEY APPROACH

- Started with discreet inquiries to understand business practices of company and founder, founder’s lifestyle and recent asset acquisitions
- Conducted discreet site visits at retail stores to test business practices, and to warehouses to understand inventory position
- Reviewed lifestyle and asset position of founder and family
- Found strong indication of diversion of funds
- Based on our findings client requested forensic audit of company
- Eventually forensic audit confirmed findings and allowed client to exit

OBSERVATIONS

- Discreet inquiries revealed significant issues in the reputation of the founder and the company’s brand
- Founder’s lifestyle and fund-raising activities were in full swing despite poor performance of business

Early warning

- MIS data provided to client had been poor since early days of investment
- High churn at mid to senior level staff who created noise about the governance environment at the company
- There were other investors and lenders in other subsidiaries and holding companies whose interests were differently aligned to the Client even after client

War Stories – Japan (Willful Default)

CLIENT CHALLENGE

Client: Foreign law firm & its US-based client company

Subject: Japan-based electronic device company

Context: Subject transferred their core business to a PE fund and claimed inability to pay.

Scope:

- Understand purpose of the business transfer
- Ascertain what kind of assets and debts were transferred
- Understand asset transaction and profile of the Subject

OUTCOME

- Subject wanted to avoid court involvement and opted for voluntary liquidation
- Office buildings, factories and land of over 40K sq. meters, and employees were transferred to the new entity
- Financial loans were transferred but debts weren't
- Subject was found to own a land of more than 15K sq. meters and several buildings
- Our findings **assisted the client to file for Subject's bankruptcy** to preserve the left properties and **secure the collection of the debt** under the court control

KEY TAKEAWAY

- Asset searches could be a valuable step for next action in various types of debt collection where a debtor insists it cannot repay
- Kroll's In-depth public record analysis supported by human source inquiries has revealed various types of undisclosed asset profile of debtors, which has helped in negotiation and litigation for our clients

In Summary



Quick Poll

Fasten your seat belts...brace for impact

- Be **PROACTIVE**... herd immunity won't help your financials
- Believe what you **SEE**... not what you hear
- **TRUST** your instincts... no models for braving COVID-19
- If in Dispute... think **RECOVERY**
- There is no big or small fraud... it's **FRAUD**

- ... **STAY SAFE**

Q&A



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