

## Amendments to Insolvency Code, Law 4336/2015

On the 14th of August 2015, Law 4336/2015 on the ratification of Draft Agreement for ESM Financial Support and the necessary provisions for the implementation of the Financing Agreement was voted by the Greek Parliament.

Among other provisions, Law 4336/2015 introduces important amendments to the Insolvency Code. More specifically, extensive amendments are being brought to the pre-insolvency rehabilitation procedure, which are expected to strengthen the possibilities of welfare for sustainable enterprises and maintenance of working positions. However, amendments are being brought to the entire Insolvency Code, affecting the insolvency procedure to a great extent.

A short overview of the most important amendments in the Insolvency Code Chapters is presented below.

### **A. Pre-Insolvency Rehabilitation law:**

#### **Expansion of subjective scope of rehabilitation procedure**

Both debtors under a current or threatened inability to meet their financial obligations as they fall due in general and debtors for which, pursuant to the Court's judgment, subjection to insolvency is probable and may be removed with the rehabilitation procedure, are entitled to be subject to rehabilitation procedure. Therefore, an enterprise is given the opportunity to be subject to rehabilitation prior to bankruptcy.

#### **Shortening of the deadline for the submission of new rehabilitation application**

The time period between the ratified prior rehabilitation procedure and the submission of new rehabilitation application for the same debtor is reduced from 5 to 3 years.

#### **Abolition of the deposit note of the Deposits and Loans Fund**

The obligation for the deposit of the amount ranging from 2.000 to 7.000 Euros - depending on the case - of the Deposits and Loans Fund which used to accompany the application under the penalty of inadmissibility is abolished.



## Facilitation of the grant of temporary suspension

The temporary suspension of individual measures for compulsory enforcement against debtor's property is now granted in any case when it is highly probable that an agreement will be concluded. More specifically, such suspension is always granted when the following conditions are met: a) creditors, representing a percentage of at least 30% of the total claims against the debtor, including 20% of any creditors who are secured in rem or with special privilege or with mortgage pre-notation, declare either orally before the insolvency court or its chairman who is appointed to judge the application for provisional measures, or with written letter submitted by the applicant, their intent to participate or their actual participation to negotiations for the conclusion of a rehabilitation agreement and b) the court anticipates the conclusion of a rehabilitation agreement as well as the deterrence of the debtor's placement under cessation of payments.

## Automatic suspension of prosecutions against the debtor in case of direct certification of rehabilitation agreement (no. 106b)

By submitting a "prepackaged" rehabilitation draft for direct certification, the measures of individual and collective compulsory enforcement against the debtor, either pending or not, are automatically suspended. The above suspension cannot exceed 4 months. The automatic suspension of prosecutions may apply only once.

## B. Special liquidation in going concern:

The special liquidation procedure of article 106ia is simplified, in order to be more user-friendly and popular. More specifically:

- ▶ The scope of the procedure is expanded in order to cover any debtor – legal entity which is under a current or threatened inability to meet their financial obligations as they fall due, substituting the more stringent condition of meeting the numerical limits of the criteria provided in article 42a par. 6 of Law 2190/1920.
- ▶ Abolition of the condition for the existence of a solvent investor interested in buying the assets of the company.
- ▶ Any financings and benefits received during the procedure are ranked at first rank of the general privileges of the Insolvency Code.
- ▶ The acceptance of the application entails the automatic suspension of all individual prosecutions against the debtor during the whole duration of the special liquidation.

## C. Announcement of claims:

The procedures relating to the announcement, verification and submission of objections during the auditing of credits are shortened in time. More specifically:

- ▶ The deadline for the announcement of claims is shortened from 3 months to 1 month and starting point is the publication of the decision declaring the insolvency.
- ▶ The deadline for the verifications is limited as well from 3 months to 1 month (and may be exceptionally extended to 2 more months).
- ▶ The deadline for the submission of objections is limited to 10 days from the completion of verifications, while the court hearing should take place within 20 days from their submission, substituting the previous vague wording "without undue delay".

## D. Ranking of creditors:

Changes are being brought to the ranking of creditors, so as for the concurrence of general and special privileges in insolvency to be regulated in alignment with the respective recent provisions of articles 975 and 977 of Greek Civil Procedural Code. The provision of a special privilege in favor of the Greek State for claims arising from VAT and withholding and imputable taxes is considered as crucial.

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