

Insolvency and restructuring from a Covid-19 perspective

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The Covid-19 pandemic created an unprecedented situation for the lives and livelihoods of people from every socioeconomic background. In response to the pandemic, Cyprus introduced a series of humanitarian and financial measures, with the latter covering insolvency and restructuring matters.

Emergency measures

In June 2020 the ***Department of Insolvency and Related Matters Law 68(I)/2020*** entered into force and established the Department of Insolvency, which is primarily responsible for:

- the restructuring and modernisation of operational procedures which will enable the department to successfully meet its duties;
- the effective management of personal repayment plans (RPPs) for insolvent natural persons that may be restored to solvency;
- the effective and efficient management of debt relief from small-sized debts for persons with no disposable income or substantial assets;
- the effective implementation of insolvency proceedings for individuals and legal entities, including the execution of bankruptcy and liquidation orders; and
- the assessment and evaluation of proposals and potential reforms relating to insolvency and restructuring matters.

Further, the Cyprus foreclosure procedure was inevitably revised due to Covid-19. In particular:

- deadlines were extended (eg, the 30-day mortgage repayment deadline was extended to 45 days, while the 30-day deadline to file an appeal from the date of a letter's formal issuance was extended to 45 days); and
- a new ground of appeal was introduced for debtors in cases of setting aside an enforcement procedure.

Covid-19 also affected Department of the Registrar of Companies deadlines for companies' submissions of annual returns. Companies now have until 28 January 2021 to comply with their filing requirements.

Due to Covid-19, court operations were suspended until 30 April 2020 subject to certain exceptions (ie, where a matter was extremely urgent or leave of the court was obtained). The courts reopened on 4 May 2020 and, following a Supreme Court order, judges' annual leave was shortened to replace the lost time from the delayed cases due to the crisis.

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Cyprus is a member of the Pan-European Guarantee Fund, which was established to address the consequences of the pandemic across Europe. The financing package consists of:

- guarantee schemes based on existing programmes for the immediate deployment of up to €8 billion in small and medium-sized enterprise (SME) financing;
- liquidity lines to banks to ensure additional working capital support for SMEs and mid-caps of €10 billion; and
- asset-backed securities (ABS) purchasing programmes which enable banks to transfer risk on portfolios of SME loans, providing another €10 billion of support.

Cyprus is expected to receive between €300 million to €400 million to benefit SMEs and mid-cap companies affected by the pandemic.

Another notable measure is an additional €400 million for the Cyprus Entrepreneurship Fund (CYPEF). Companies with up to 250 employees can apply for a loan not exceeding €1.5 million, which is repayable over a 12-year period with interest rates ranging from 2.55% to 4.5%. The CYPEF is managed by the European Investment Fund and its lending process has no governmental interference.

Evaluation of measures and suggestions

The insolvency and restructuring reforms introduced due to the Covid-19 crisis must not be undermined. A more relaxed approach to insolvency proceedings in the Cypriot corporate environment might be key going forward. There is still room for more flexible insolvency measures and Cyprus should take note of the approaches of other EU member states in this regard – most notably the United Kingdom.

If conditions allow, it may be worth extending financing to large companies that find themselves in financial difficulties due to Covid-19, as this could have a domino effect on the Cyprus economy where large company developments attract more attention than SMEs. Arguably, companies should be entitled to financial support regardless of their size.

Comment

Although the insolvency and restructuring framework has not been a common concern for the Cypriot authorities and regulators during the Covid-19 crisis, the government has proposed many suggestions which promise an updated insolvency framework to reflected today's reality.

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As an EU member state, Cyprus is able to receive further financial assistance from external sources. Such financing will provide companies with a safety net and a chance to grow during this period of relative instability.

Although the aforementioned measures and suggestions could provide much-needed breathing space for companies, they might not solve problems that existed prior to the Covid-19 crisis, including a lack of revenues and cash flows.

The pandemic is ongoing and many countries – including China – are facing a second wave of Covid-19, which could have a detrimental impact on the global economy. If the crisis deepens, this could heavily affect insolvency and restructuring proceedings alongside other economic sectors.

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