

## Schemes of Arrangement and Recent Changes

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Cyprus offers an attractive alternative to Court sanctioned debt restructurings, by reducing the statutory majority necessary for approving a scheme of arrangement.

Recent legislative amendments, have reduced the required statutory threshold for approving a scheme of arrangement, to a simple majority in value of the creditors present and voting, and have eliminated the former requirement of securing a special majority of 75% both in value and in number of the creditors present and voting.

Following the approval of a scheme of arrangement by the required statutory majority, the arrangement may be brought before a judge for sanctioning, and upon its sanctioning it becomes binding on all parties involved.

Decisions and rulings of the Cyprus Court, are generally recognisable and enforceable in the European Union, Switzerland, Norway, Russia, Ukraine and China; making Cyprus an attractive jurisdiction for pursuing global restructurings. Cyprus has reduced the threshold for approaching Schemes of Arrangements.

### Recent amendments to Cyprus law

Recent legislative enactments have amended section 198 of the Cyprus **Companies Law, Cap. 113**, lowering the required threshold for the creditors' approval of a scheme of arrangement to a simple **majority** in value (50+%) for each class of creditor voting for the arrangement; and have eliminated the need for securing a special majority in value and in size (75+%) under the previous regime.

### Procedure and sanctioning

The procedure for pursuing a scheme of arrangement is governed by Sections 198 – 201 of the Cyprus **Company Law, Cap. 113**.

A scheme of arrangement may be pursued by the company under distress; any creditor or shareholder of the company; or in the case that the company is under liquidation the liquidator of the company.

Pursuing a scheme of arrangement entails a 4-step procedure, which can be broadly outlined by the following steps:

- **Preparation & Drafting:** Preparation and drafting of the scheme of arrangement will usually entail the hiring of financial experts, who together with the legal team will draft

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the necessary documents, including the scheme document, an explanatory statement and an insolvency report.

- **Convening Creditors' Meetings:** The scheme documents will need to be presented before a judge who will preliminary consider the arrangement, address issues of jurisdiction and creditors' classification, and authorise the convening of the creditors' meetings.
- **Creditors' Meetings:** The affected creditors must be invited to vote for the arrangement, separated into classes of creditors by taking into account their rights pre and post sanctioning of the arrangement.
- **Sanctioning Hearing:** If a simple majority in value of the creditors present and voting for each class of creditors is secured, the arrangement may be brought before a judge for sanctioning. At this stage the judge will assess the fairness of the scheme and will take into account the position of opposing creditors who will be invited to attend the hearing.

## **Applicable law, jurisdiction and enforcement**

In considering a scheme of arrangement, Cyprus courts will follow the guidance offered by decisions of other Common Law jurisdictions, including England, Singapore and Hong Kong which are directly applicable in Cyprus by virtue of section 29(c) of the Court of Justice Law, L. 14/1960. This offers the procedure the required certainty and expertise.

The wide range of bilateral and multilateral treaties enjoyed by Cyprus will cause decisions and rulings of the Cyprus Court to be generally enforceable throughout the European Union, Norway, Switzerland, Russia, Ukraine and China. This reinforces the court approved arrangement with the required cross-border enforcement and implementation tools.

## **General Advantages of Schemes of Arrangement**

Pursuing a scheme of arrangement in appropriate circumstances will carry advantages over the alternative insolvency procedures of examinership or liquidation, which amongst others include:

- Offering a flexible, operational, creative and simple mechanism for restructuring debt;
- Being cost-effective, by avoiding costs relating to investigation and administration of examinership and liquidation proceedings; and
- Allowing the company to continue as a going concern.

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## Our services

A.G. Erotocritou LLC has a specialised team with significant expertise (recently had an active involvement in the first and one of the largest ever restructurings / schemes ever attempted in Cyprus {after the above changes} with regard to a large financial conglomerate and group of its creditors) and can undertake any restructuring process, from A to Z. For further information on this topic or in the event you have any questions, please contact us at [info@erotocritou.com](mailto:info@erotocritou.com), or your usual contact within the firm.

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