

The background of the entire page is a composite image. It features a world map in a light blue/teal color. Overlaid on the map is a financial candlestick chart with red and teal bars. A person's hand, wearing a white shirt cuff, is visible in the upper left, with the index finger pointing towards the chart. In the top right corner, the text 'C/M/S/' is displayed in a large, white, sans-serif font, with a horizontal line underneath it. Below this line, the words 'Law.Tax' are written in a smaller, white, sans-serif font.

C/M/S/

Law.Tax

# Restructuring and insolvency at a glance – CEE overview

July 2020

# Austria

Author: Daniela Karollus-Bruner

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What is the most common concern for business in the transaction phase, before final recovery?

The most common concern is maintaining liquidity until successfully closing the transaction. Keeping a steady cash flow is not only necessary in order to avoid illiquidity and having to file for bankruptcy before completing the transaction, but is also required to keep the business running and maintain client relationships during the crisis.

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What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

Many states have instituted COVID-19 relief funds, to which companies may apply for subsidies or other forms of (financial) aid. Such measures may provide vital liquidity to the company and thus prevent bankruptcy, at least in the short-term.

On the other hand, many countries have either fully suspended the obligation to file for insolvency, or at least limited the (statutory) reasons that lead to such an obligation. For instance, in Austria over-indebtedness is not currently a mandatory reason to file for insolvency, as long as the company still has sufficient liquidity.

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Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

Natural persons may defer planned payment instalments in insolvency proceedings for up to 9 months; corporations may not. Taxes and social security contributions may be reduced or even fixed at zero upon request. Payment in instalments is also possible

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What are the measures in place for cost reduction?

There are several measures that may be used to reduce costs during the COVID-19 pandemic under Austrian law:

- reduction of rent: tenants may request a reduction or even a complete suspension of rent payments during periods of (state-ordered) company closure.
- termination of contracts based on force majeure: even if contracts do not provide a force-majeure clause, case law allows contracts to be terminated due to pandemics under certain conditions.
- invalidity of contractual penalties: debtors are not obliged to pay any contractual penalty (agreed in a contract concluded prior to 1 April 2020) if they are either significantly impaired in their economic capacity or are unable to perform due to the restrictions placed on working life as a consequence of the COVID-19 pandemic.
- Obligation to not distribute profits in LLCs: Losses incurred by the LLC in the new financial year as a result of a pandemic can justify a (possibly partial) distribution ban of dividends to shareholders.

Employees may be ordered (i.e. in Slovenia) or voluntarily agree (i.e. in Austria) to work short-time, in which case the state will refund part of the salary.

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What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

In Austria, private persons and micro-enterprises are eligible to defer payments under loan agreements for a period of three months. Bridge loans used for short-time work salary payments are not subject to potential claw-back actions by the insolvency administrator. The maximum deadline for filing for insolvency has been extended from 60 to 120 days after bankruptcy occurs; other deadlines may be extended by the court upon request.



# Bosnia and Herzegovina

Author: Sanja Voloder

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What is the most common concern for business in the transaction phase, before final recovery?

Bosnia and Herzegovina (“B&H”) consists of two entities that are separate administrative units: Federation of Bosnia and Herzegovina (“FBiH”) and Republika Srpska (“RS”), as well as a condominium – Brčko District. For this short review, the two larger entities are considered.

Business-side concerns in a phase prior to initiating official insolvency proceedings would involve actions to improve the company’s liquidity or reduce the risk of insolvency.

Reorganisation, as a recovery method for distressed companies, has existed as an option under the applicable laws and regulations in B&H for quite some time.

These are part of an initiated bankruptcy procedure. Although reorganisation plans are often considered during insolvency procedures, viable court practice (or “success stories”) is not available.

In addition, court restructurings of companies (i.e., without having initiated official insolvency proceedings) in RS were introduced in 2016 and these procedures are yet to be tested in practice.

We would also like to stress that further attempts are being made to improve restructuring procedures – in RS, for example, voluntary out-of-court company restructuring proceedings are being contemplated and legislation is in draft form.

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What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

There are no specific factors that currently differentiate the standard procedure of filing for an insolvency, i.e., the procedure is as regulated under the applicable laws – in brief, in RS and FBiH, insolvency procedures are initiated by filing a written petition to the competent court by either the bankruptcy debtor or a creditor with a relevant legal interest.

Court restructuring proceedings in RS are initiated by the debtor or the creditor provided that the debtor agrees with the creditor – initiated restructuring.

We would place particular focus on RS and the new court restructuring procedures that are likely to be more frequently tested in the upcoming period.

Although regulated under the bankruptcy legislation, these are specific and separate legal proceedings implementable prior to the initiation of bankruptcy proceedings to attempt a financial and operational restructuring of the debtor.

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Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

These measures are possible, but must be adopted in the insolvency reorganisation plan for the distressed company. For employees who have retained employment in the company, social security contributions and taxes must continue to be settled, however.

The legislation is vague in respect of the company court restructuring process introduced in 2016. It is stated that the relevant measures would be proposed in the plan on financial and operative restructuring, which is subsequently voted on by the creditors in the company restructuring procedure.

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What are the measures in place for cost reduction?

Various cost-cutting measures can be proposed as part of a plan on company reorganisation during an insolvency procedure, which can involve debt restructuring arrangements as well as company restructurings (e.g. a merger).

The specific measures usually depend on the distressed company in question.

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What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

Such arrangements are generally available, however financial services organisations fall under the regulated sector and any reprogramming of loans or similar are subject to the regulatory requirements imposed by the banking agencies, as well as (i) the individual contractual arrangements and (ii) the stage in which the company is found (so, whether the company is under threatened insolvency, restructuring prior to the initiation of the court insolvency in RS or alike). Other factors can apply depending on the specific case.

Specifically, as result of the COVID-19 pandemic, moratorium on loans and other similar measures are available to affected borrowers and companies in general.

# Bulgaria

Author: Marin Drinov

What is the most common concern for business in the transaction phase, before final recovery?

In the context of recovery procedures necessary due to financial difficulties, most common concerns are related to not letting the company enter into an insolvency procedure and restructuring it in a way to allow it to return to profitability, as well as to renegotiate existing debt.

What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

Tax effects must be considered in the case of the write-off of receivables.

Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

If the restructuring is not complete, filing an application for insolvency has the potential to discontinue the restructuring if the insolvency court decides to open the procedure and to assign an insolvency administrator. Hardening periods should also be taken into consideration, as any transactions concluded with respect to the restructuring may be challenged in the insolvency phase.

What are the measures in place for cost reduction?

Deferral of payments towards private parties is subject to negotiations and arrangements between the parties. Deferral of some types of taxes (VAT tax deferral is not possible) may be allowed by the tax administration if sufficient collateral is provided. Such a deferral of public receivables is not admissible if the company is in liquidation or undergoing an insolvency procedure or if enforcement has been initiated with respect to the respective receivables. Deferral of social security contributions is explicitly excluded.

What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

There are no explicit legal provisions in that respect. General cost efficiency and budget cuts measures may be applied.

# Croatia

Author: Jelena Nushol

What is the most common concern for business in the transaction phase, before final recovery?

The most common concerns such as maintaining liquidity (third party loans, shareholder loans, capital injections, distressed M&A etc.), avoiding bankruptcy, cost reduction, applying for relevant state measures, retaining customers and complying with a restructuring plan (in case of pre-bankruptcy) and relevant statutory obligations for companies in financial distress.

What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

Restructuring in Croatia may be carried either as an out-of-court restructuring or as a court driven one.

**Out-of-court restructuring** is purely a result of negotiations and agreement between the parties, which need to be aware of the following challenges:

- changes in existing security documents and corresponding registries is sometimes required;
- claw back periods within and outside bankruptcy proceedings;
- company’s and director’s statutory duties; and
- specific clauses in debtor’s existing agreements.

There are 3 different **court driven proceedings**, envisaged for the companies in financial distress:

- pre-bankruptcy proceedings (Cro. Predstečajni postupak);
- extraordinary administration proceedings (Cro. Postupak izvanredne uprave); and
- bankruptcy proceedings (Cro. Stečajni postupak).

A pre-bankruptcy proceeding or extraordinary administration proceeding may be initiated either by the debtor or its creditor, but only if the debtor gives its consent.

On the other hand, a bankruptcy proceeding may (and in some cases should) be proposed by the debtor itself, creditors and Financial Agency.

Pre-bankruptcy proceedings and extraordinary administration proceedings are primarily envisaged for restructuring, whereas in a bankruptcy proceeding, even though restructuring is possible, it is unlikely.

As a special COVID-19 related measure, on 1 May 2020 a new piece of legislation was introduced, based on which, among other measures, the possibility and obligation to initiate a bankruptcy proceeding (save for the case when a debtor initiates it) is suspended for the following three-month period, with possibility of an extension for additional three-month period. At the moment, therefore, debtors are not required to file for bankruptcy, even if the conditions above are met.

Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

No, but it is possible to defer / pay in instalments due tax liabilities, under certain conditions

What are the measures in place for cost reduction?

As a cost reduction measure and for the sake of preserving workplaces, the Croatian Government has adopted a non-repayable financial aid for the affected employers.

The monthly aid for March was HRK 3,250.00 (EUR 430.00) per full-time employee, and for April and May it is HRK 4,000.00 (EUR 530.00).

Additionally, social contributions are paid by the state, thereby effectively decreasing the cost of salary for employers by an additional HRK 1,825.00 (EUR 240.00).

What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

Even though a moratorium on loans has not been implemented in Croatia through legislation, a special non-binding regime has been envisaged by the Croatian Banking Association and as a result, most Croatian banks have internally implemented a minimum three-month loan moratorium and enforcement stand-still.

In addition, on 1 May 2020 a new piece of legislation was introduced, based on which enforcement proceedings, and the possibility of and obligation to initiate bankruptcy proceeding (save for the case when debtor initiates it) and running of default interest rates are suspended for the next three months, which may be extended for an additional three months.

# Montenegro

Author: Milica Popović

What is the most common concern for business in the transaction phase, before final recovery?

There are no specific concerns, only the general ones such as maintaining liquidity (or to ensure it by mean of loans, intercompany loans, investments, etc.), reducing costs and retaining key employees.

What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

The companies facing restructuring have two options when filing for insolvency, (i) to file the reorganization plan together with the insolvency petition, or (ii) to file the reorganization plan after the insolvency proceedings commence.

In both cases the content of the reorganization plan is strictly regulated by law and preclusive statutory deadlines apply (e.g. for filing the reorganization plan in the course of the insolvency proceedings, for scheduling a hearing for consideration and voting on the reorganization plan).

The insolvency proceedings are currently conducted without any restrictions.

Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

In principle yes; the bankruptcy law provides for a wide list of measures and means for realizing the reorganization plan. However, it remains to be seen how this would function in the upcoming months, particularly if there were any changes because a large number of companies undergo restructuring due to a COVID-19 induced economic crisis.

- Payment of taxes in instalments:
- a tax debt up to EUR 100k from 24–60 monthly instalments
  - a tax debt above EUR 100k from 36–72 monthly instalments.

What are the measures in place for cost reduction?

The Law on Insolvency does not define measures for reduction of the company's costs. Hence, such measures could be to be determined on individual basis and stated in the restructuring plan.

What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

Bridging loans are typically not granted to companies in a restructuring/ insolvency procedure. The terms for credit deferrals, and deadline extensions could be approved by the banks, but only upon submitting specific information on the company undergoing the restructuring/insolvency procedure.

# North Macedonia

Author: Marija Filipovska

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What is the most common concern for business in the transaction phase, before final recovery?

Apart from the common concerns regarding reduction of expenses, increasing revenue and retaining consumers, during restructuring companies focus on compliance with the restructuring plan, which lists measures and means for implementing the restructuring in detail.

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What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

Companies facing restructuring should follow the statutory steps in the restructuring procedure. As a first step, the restructuring plan may be submitted (i) along with the insolvency petition, or (ii) after commencing the insolvency proceedings. The following steps include (i) scheduling a hearing for consideration and voting on the restructuring plan, issuance of a decision by the insolvency judge, etc.

Companies should mind the accuracy of the data stated in the restructuring plan due to their liability for potential damage inflicted on the creditors, as well as their compliance with the statutory prescribed content of the restructuring plan.

Due to the COVID-19 state of emergency currently in force in N. Macedonia, all ongoing insolvency procedures are suspended until 30 June 2020, and no insolvency procedure may be initiated during this period.

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Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

The restructuring plan may include various measures such as deferral of planned payment instalments. Deferral of taxes could be approved by the Public Revenue Office in N. Macedonia (postponed one-time payment or up to 36 instalments), whilst deferral of social security contributions is not possible during the term of the employment.

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What are the measures in place for cost reduction?

The Law on Insolvency does not define measures for reduction of the company's costs. Hence, such measures could be to be determined on an individual basis and stated in the restructuring plan.

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What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

Bridging loans are typically not granted to companies in restructuring/insolvency procedure. The terms for credit deferrals, and deadline extensions could be approved by the banks, but only upon submitting specific information about the company undergoing a restructuring/insolvency procedure.

# Serbia

Author: Milica Popović

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What is the most common concern for business in the transaction phase, before final recovery?

No specific concerns, rather the general ones such as to maintain liquidity (or to ensure it by means of loans, intercompany loans, investments, etc.), to reduce costs and to retain the key employees.

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What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

The companies facing restructuring have two options when filing for insolvency, (i) to file the reorganization plan together with the insolvency petition ("pre-packaged reorganization plan"), or (ii) to file the reorganization plan after the insolvency proceedings commence.

In both cases the content of the reorganization plan is strictly regulated by law and preclusive statutory deadlines apply (e.g. for filing the reorganization plan in the course of the insolvency proceedings, for scheduling a hearing for consideration and voting on the reorganization plan, for submitting the objections to the reorganization plans and responding to them).

Bearing in mind that the state of emergency in Serbia was lifted on 6 May 2020, the insolvency proceedings are currently conducted without any restrictions.

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Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

In principle yes; the bankruptcy law provides for a wide list of measures and means for the realizing the reorganization plan. However, it remains to be seen how this would function in the upcoming months, particularly if there were any changes due to a large number of companies undergoing restructuring because of an economic crisis caused by COVID-19.

Deferral of due taxes for 24 months and payment in 60 instalments.

The Government of Serbia can write off unpaid taxes (except social security contributions).

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What are the measures in place for cost reduction?

The Law on Insolvency does not define measures for reduction of the company's costs. Hence, such measures could be to be determined on an individual basis and stated in the restructuring plan.

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What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

Bridging loans are typically not granted to companies in a restructuring/insolvency procedure. The terms for credit deferrals, and extension of deadlines could be approved by the banks, but only upon submitting specific information on the company in restructuring/insolvency procedure.

# Slovakia

Author: Natália Jánošková

What is the most common concern for business in the transaction phase, before final recovery?

- Repayment of loans and other obligations,
- Payments to key employees,
- Availability of debtor's assets to ensure recovery.

What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

- There are two types of court driven insolvency proceedings:
- restructuring proceedings aimed at saving the company by waiving a portion of creditors' receivables;
  - Bankruptcy proceedings leading to a liquidation of the company.

Once the company has trouble paying its obligations, it may:

- Consider informal restructuring /not explicitly regulated in law/;
- File for formal restructuring proceedings;
- File for bankruptcy.

Steps and considerations for the restructuring:

- Company finds an administrator who prepares a restructuring opinion;
- If the administrator recommends restructuring, a court will start restructuring proceedings (if not, company must file for bankruptcy);
- The Company will prepare a restructuring plan – once this is approved by the court and creditors, part of companies' debts will be waived, and the company can continue its operation.

The COVID-19 laws provided certain companies in trouble with the option to apply for a "temporary protection" from a court. Granting temporary protection has a variety of implications, including a postponement of bankruptcy proceedings and deferral of payments.

Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

## 1. Tax

Companies may postpone a filing of tax return as well as payment of taxes.

## 2. Social insurance contributions

### 2.1 Waiver

Most affected employers were exempted from payment of social contribution payments for April 2020.

### 2.2 Postponement

Obligatory social insurance payments for March 2020 (and May 2020) were postponed until 31 July 2020 (December 2020).

The postponement of payment of social insurance contributions applies to an employer whose net turnover or revenue has decreased by 40% or more.

### 2.3. Health insurance

Obligatory health insurance payments for March 2020 were postponed until 31 July 2020.

What are the measures in place for cost reduction?

The Bankruptcy and Restructuring Act does not mention the possibility of reducing costs. Therefore, if cost-reduction is required, it is necessary to use the individual resources of the restructured entity.

It can be the sale of unnecessary supplies, equipment and especially other items, their ownership requires the cost of maintenance, service etc.

What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

The Slovak government approved a measure regarding the postponement of loans repayments, the so-called moratorium on loans for consumers and small entrepreneurs.

The following rules apply for small employers:

- If the creditor is a bank or the branch of a foreign bank – postponement of repayments for a period specified in the request for postponement of repayment, limited to nine months from the due date of the next outstanding repayment instalment.
- If the creditor is a person other than a bank or a branch of a foreign bank – postponement of repayments for a period specified in the request for postponement of repayment, limited to three months from the due date of the next outstanding repayment instalment.

Another measure is a programme of Slovak Investment Holding consisting of guarantees for Slovak banks which will enable the extension of favourable-term bridging loans to small and medium-sized enterprises, topped up by an interest rate subsidy for those enterprises that manage to keep their staffing levels unchanged.

# Slovenia

Author: Maja Žgajnar

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What is the most common concern for business in the transaction phase, before final recovery?

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What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

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Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

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What are the measures in place for cost reduction?

General concerns such as maintaining liquidity, avoiding bankruptcy, cost reduction, etc.

First, whether it makes sense to do financial restructuring at all or whether it makes more sense to start a liquidation or even a bankruptcy proceeding. Second, whether to do restructuring in an out-of-court proceeding or in a court proceeding (via compulsory settlement proceeding, simplified compulsory settlement proceeding, or court sponsored preventive restructuring proceeding).

Third, which restructuring measures will be used.

Regarding moratorium on loan payments please see answer below. There were no other acts adopted on any other type of payment moratoriums. For employees who were working during the epidemic, employers and employees were exempted from paying certain social security contributions for part of March, as well as the whole April and May.

Companies were exempted from paying a pre-payment for corporate income tax for April and May.

Most of the measures relating to reducing **labour costs** lasted until 31 May.

The measures now in effect are:

- Furlough (čakanje na delo): employers are reimbursed 80% of payments made to employees, with the cap of 892,50 EUR per employee.
- Employers have also the right to offer part-time work to employees to whom they cannot provide full-time work and may apply for a partial refund (reimbursement) of the compensation paid.

No intervention measures with respect to rent payments and similar.

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What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

## Moratorium on loan payments

- Affects all (i) banks and savings institutions with registered seats in Slovenia and (ii) banks from other member states with a branch office in Slovenia.
- Affects all types of loans, consumer and corporate. Applies to all obligations arising out of a loan agreement, with the exception of contractual interests.
- The payments may be postponed for a period of 12 months.

## Loan guarantee scheme

- Guarantee covers (i) 70% of the principal of a loan, granted to a large company and (ii) 80% of the principal of a loan, granted to micro companies and SMEs.
- Applicable to loan agreements executed between 12 March 2020 and 31 December 2020, with loans maturing in up to five years.
- The guaranteed loan amount is limited to 10% of the annual turnover in 2019 and twice the annual wage bill for 2019.
- Companies of any size are eligible if they were not an undertaking in difficulty (UID) on 31 December 2019 and got into liquidity problems only due to consequences of the epidemic.

## Changes in insolvency proceedings

- Suspension of obligation to file for insolvency until 31 August 2020 if a company became insolvent due to the epidemic.
- A debtor has more time for financial restructuring to prevent bankruptcy if a bankruptcy proceeding is proposed by a creditor, if the company became insolvent due to the epidemic.
- More time for action in compulsory settlement proceeding: Additional time is given to debtors for certain actions required in compulsory settlement proceedings.

## Other measures

- Include measures by the SID Bank and the Slovene Enterprise Fund (Slovenski podjetniški sklad).



# Turkey

Author: Arcan Kemahli

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What is the most common concern for business in the transaction phase, before final recovery?

Transactions made during restructuring may be subject to clawback periods, allowing any other creditor of the debtor that is incapable of paying its debts or that is insolvent, the chance (i) to file a lawsuit against the transactions of such debtor and (ii) to request the competent court to render the transactions in question void. Therefore, transactions should be made in such a way that are not to the detriment of other creditors' rights.

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What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

For the restructuring phase, companies should consider condordat in advance of insolvency, which would grant the debtor company the opportunity to pay its debts or avoid possible bankruptcy by gaining an extension term. When filing for insolvency, if there are indications regarding the company being insolvent, the board must prepare an interim balance sheet of the active assets over the sustainability of the enterprise and their possible sale prices. If the interim balance sheet demonstrates that the active assets of the company are inadequate to cover the credits of the creditors of the company, the board must send a legal notice to a commercial court of first instance where the company headquarters is located and request the company's bankruptcy.

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Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

The Turkish government has taken many preventive measures for the continuance of businesses:

- Although there is no statutory provision that stipulates the deferral of planned payment instalments, certain banks announced that planned payment instalments may be deferred upon the debtor's application; and
- Due to the act of force majeure declared by the government on tax and social security declarations and payment dates, March/April/May 2020 VAT obligations have been postponed for individuals liable for income tax due to their commercial, agricultural or self-employment activities and for corporate taxpayers directly affected by the coronavirus (COVID-19) pandemic and who operate in certain sectors (among others retail [including shopping centres]; healthcare services; furniture manufacturing; the iron, steel and metal industry; mining). The March, April and May 2020 VAT declarations of the related taxpayers have been postponed to 27 July 2020;
- Employers in certain sectors can postpone the payment of their social security contributions related to the months April, May and June for a period of 6 months. No penalty will be applied;
- Postponement of credit and interest payments to banks by borrowers facing cash-flow disruptions due to the pandemic for a term of three (3) months.

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What are the measures in place for cost reduction?

Other than incentivizing banks to provide credit with low interest rates, the Turkish government also announced the short-term allowance programme, which provides employees with income support to be paid from the unemployment fund if and when their working hours are decreased by one-third of their ordinary working hours or the operations of a workplace are wholly or partially suspended for at least a four-week period due to a general economic, sectoral or regional crisis or a force majeure event.

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What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

Turkish banks announced support programmes in terms of credit deferrals, deadline extensions and granting credit, which are also supported by the Turkish government via the Credit Guarantee Fund that provides guarantees for SMEs and enterprises in certain sectors that have difficulty in obtaining guarantees.

Turkish public banks announced a credit programme with low interest rates incentivizing credit applications to increase the liquidity in the Turkish market.

# Ukraine

Author: Anna Pogrebna

What is the most common concern for business in the transaction phase, before final recovery?

- Possibility of full (or even partial) recovery of debt.
- Potential write-off amount.
- Availability of debtor’s assets to ensure recovery.
- Duration of proceedings until final recovery.

What needs to be considered by companies facing restructuring and are there any specifics when currently filing for insolvency?

- A company’s restructuring plan should be compliant with the sample form adopted by the Ukrainian Ministry of Justice.
- Two-step approval of restructuring plan:
  1. initial approval by the creditors,
  2. confirmation by the court.
- Companies’ can initiate restructuring before filing for insolvency, but a restructuring plan is still subject to the two-step approval, as above.
- The restructuring plan should define the duration for restructuring procedures, but there is no statutory time limit.
- Application for insolvency can be filed either by the debtor or one of the creditors to the competent commercial court, supported with proof of insolvency risks (no restriction for a minimum amount of outstanding obligations).

Can companies count on deferral of planned payment instalments, deferral of taxes and social security contributions?

In general, all payments due to creditors are suspended from the moment insolvency proceedings are opened by the court (except payments of salaries and payments for essential activities).

The restructuring plan may include deferral of various payments.

What are the measures in place for cost reduction?

From the opening of insolvency proceedings by the court, all penalties and interest charges on outstanding payments are suspended.

What does the CEE market offer in terms of credit deferrals, bridging loans, and deadline extensions?

- Special legislation has been enacted for financial restructuring with the following features:
- Out of court voluntary procedure;
  - Short duration (up to 90 days);
  - Approval of financial restructuring plan by mutual agreement of debtor and creditors;
  - Flexibility in terms of financial restructuring plan (deferral of payments, suspension of interest, full or partial debt forgiveness, re-financing, etc.).

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