

## **Coronavirus (COVID-19)—Tweaks to ground operations for bankruptcy proceedings in Japan in light of COVID-19**

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**Restructuring & Insolvency analysis: We look at what steps Japan has taken in light of the coronavirus (COVI-19) pandemic. Written by Yosuke Kanegae, a restructuring partner in the Tokyo Office of Nagashima Ohno & Tsunematsu and author of the Japan chapter in the Asian Business Law Institute (ABLI)'s publication, Corporate Restructuring and Insolvency in Asia 2020.**

### **Declaration of emergency**

On 16 April 2020, the Japanese government issued a 'Declaration of Emergency for Covid-19' (the Declaration of Emergency) covering all 47 prefectures in the country, in addition to the seven prefectures, including Tokyo, which were initially covered by the Declaration of Emergency. As of 16 April, the number of listed companies that had disclosed the impact of COVID-19-related events on their performance stood at 1,389, or 36.7% of all listed companies, and the downward revisions to these companies' performance totalled ¥1,801.3bn in sales and ¥1,048.2bn in final profit.

### **Financial results**

In view of the approaching deadline for many listed companies to announce their financial results for the financial year ending March 2020, the Tokyo Stock Exchange expressed the view that risk information should be proactively disclosed, that financial results may be disclosed once finalised, and that 'delay' in meeting the disclosure deadline only need to be disclosed if the delay is significant. Further, companies may state their earnings forecasts as 'unfixed', and provide updates appropriately once finalised. In addition, the Finance Services Agency, Japan's financial regulator, has indicated that the deadline for the disclosure of securities reports on companies' financial results ending March will be extended to the end of September this year, approximately three months later than usual, even if no application is made for the extension.

### **Bankruptcy matters and out-of-court work outs**

Specifically, in regard to bankruptcy matters, as of 17 April 2020, the number of companies that had become insolvent as a result of COVID-19-related events stood at 66 nationwide (41 were bankrupt and 25 in the process of preparing for bankruptcy), most of which are in the manufacturing, personal consumption-related retail and service industries. In March alone, there were 740 bankruptcies, an increase of approximately 11.7% compared to the same month a year ago. Total debt was ¥105.49bn in March, up approximately 9.0% year-on-year. In view of these circumstances, notwithstanding no change in the law, the Tokyo District Court has decided to postpone all bankruptcy creditors' meetings that have been scheduled between 8 April 2020 and 8 May 2020 until a date 12 weeks later. In addition, in civil rehabilitation proceedings, rehabilitation debtors and their lawyers, and supervisors are not required to appear at creditors' meetings. Although the court has scaled back its operations, it continues to respond to filings of new petitions, and hold meetings and consultations that are urgent.

Regarding out-of-court workouts, the Japanese Association of Turnaround Professionals is accepting general inquiries in relation to a scheme called 'Turnaround ADR' by e-mail, and continues to handle applications for advance consultation by phone, email, and even face-to-face.

The government has also prepared the following financial support measures for not only small and medium-sized enterprises (SMEs) but also large businesses—safety-net loans and special guarantee schemes for SMEs, public grants for employment, and protection of borrowers who are unable to pay rent. However, with the expansion of the Declaration of Emergency on 16 April, it is expected that companies' business performance will deteriorate more sharply due to closures and reduced operating hours.

Yosuke Kanegae is a restructuring partner in the Tokyo Office of Nagashima Ohno & Tsunematsu, one of the 'big four' law firms in Japan. With 20 years of experience, Yosuke has worked extensively in all aspects of in-court bankruptcy cases and out-of-court workouts in Japan, and is recognized as 'The Best Lawyers' in

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Asian Business Law Institute (ABLI) is a permanent institute based in Singapore that initiates, conducts and facilitates research with a view to providing practical guidance in the field of Asian legal development and promoting the convergence of Asian business laws. Its latest publication *Corporate Restructuring and Insolvency in Asia 2020* (Compendium) is the phase-1 output of its Asian Principles of Business Restructuring project jointly with the International Insolvency Institute. This fully-sourced Compendium maps the existing business reorganisation regimes (both in-court and out-of-court) in all ten ASEAN member states, Australia, China, Hong Kong SAR, India, Japan and South Korea, offering a bird's-eye view of the corporate restructuring landscape in the region. The Compendium is available at [www.ebooks.abli.asia/insolvency/](http://www.ebooks.abli.asia/insolvency/).