

## **INSOL Europe/LexisNexis coronavirus (COVID-19) Tracker of Insolvency Reforms—Cyprus (update)**

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**Restructuring & Insolvency analysis: We look at the reforms to the insolvency law of Cyprus prompted by the coronavirus (COVID-19) pandemic. Written by Irina Misca of CITR, member of INSOL Europe.**

We are still waiting for relevant changes to be made to the Cyprus' insolvency framework, which would render all mechanisms suitable to the current reality. On the other hand, in Cyprus we cannot speak about insolvency triggers, creditors' right to file for bankruptcy/liquidation, directors' duty to file for insolvency as real threats. Since insolvency is always a last resort for both creditors and debtors in financial distress, the insolvency framework was not a major concern for authorities and legislators during this period (see Practice Note: [Cyprus—restructuring and insolvency guide](#)).

On the other hand, many financial measures were proposed by the government in the past period and I will outline below the most relevant.

### **Initial measures**

A package of measures was initially proposed, consisting of:

- the support of employees or the self-employed, as well as of the small or other enterprises by covering the greater part of the payroll costs
- the suspension of the repayment of loan instalments and interest as well as credit facilities for a period of nine months
- the suspension of VAT payment until 10 November 2020
- the suspension of increased contributions to GESY
- the extension of the repayment period of outstanding social contributions
- the provision of tax incentives for rent reductions
- the procedures for eviction and foreclosure have been suspended
- the price of electricity has been reduced

### **Secondary measures**

The second governmental package aiming to boost confidence and economic activity in Cyprus was announced on 28 May 2020 and will consist of:

- liquidity of €800m to finance small and medium size companies through the Cyprus entrepreneurship fund. Beneficiaries will be SMEs with a maximum number of 250 employees
- the scheme of loans for Cyprus SMEs and mid-cap companies was increased by €500m. Beneficiaries are companies that are registered and operate in Cyprus and employ up to 3000 people. The scheme launched in 2014 has led to new loans amounting to €930m so far
- Cyprus will participate in the Pan-European Guarantee Fund that was created to deal with the impact of the pandemic in EU member states. Cyprus is expected to draw €300m to €400m for the economy. Beneficiaries will be SMEs and mid cap companies affected by the pandemic. The loans will be guaranteed by the fund by 80%
- a scheme to subsidise the interest on new business loans including the self-employed, who have problems with liquidity as a result of the pandemic. This covers loans from 1 March to 31 December 2020. All companies and self-employed can participate provided they are not considered problematic as per the definition of the EU Commission. The subsidy will be for four

- years—up to 3.5 pp in the first two years and 2 pp for the third and fourth for SMEs and self-employed and 1.5 pp for big companies
- with a view to reinforce tourist accommodations and restaurants, the government decided to reduce VAT from 9% to 5% for the period from 1 July 2020 until 10 January 2021. The government will also pay tourist agents €10m to co-finance advertising campaign to promote Cyprus as a safe destination. Also, a new scheme of incentives up to €6.3m with a view to boost the tourist sector and Cyprus' connectivity was approved. The scheme which complements the current plan amounting to €9.37m provides for subsidies for flights to Cyprus with a passenger capacity of between 40% and 70% for a period of seven months
  - the period for income statements of employees was extended until October 2020 and the period for complementing applications for ESTIA scheme until end of July 2020 and until 15 June 2020 for new applications
  - the package also includes direct grants to very small and small enterprises as well as the self-employed persons with a total value of €100m. The scheme concerns 50,000 very small and small enterprises as well as self-employed which employ up to 50 people

## **Other measures taken**

### **Striking Off of non-compliant companies**

Cyprus companies that do not comply with the filing of their Annual Returns are subject to being struck off by the Cyprus Registrar of Companies and, in this case, the relevant announcements are made in the Official Gazette of Cyprus allowing non-compliant companies a three months' grace period to comply with the filing requirements. The process of publication in the Official Gazette of Cyprus for the striking-off of non-compliant companies is now suspended until January 2021.

### **Setting up of a Department of Insolvency**

The Parliament passed a bill at the beginning of this month regarding the set up of the Department of Insolvency. This will take over all matters related to the Insolvency Framework, as well as the activity of the Insolvency Practitioners, which was until now assigned to the Department of Registrar of Companies and Official Receiver (within the Minister of Energy, Commerce and Industry). The Department of Insolvency will have the following main responsibilities:

- the effective and efficient implementation of insolvency proceedings for individuals and legal entities, so as to contribute to the strengthening and development of the economy and ensure financial stability;
- the application of the Insolvency framework, including all regulations issued under it;
- the continuous modernisation of the relevant legislation as well as its implementation;
- promoting and upgrading the mechanisms of the Insolvency framework;
- the elaboration and submission of proposals and studies for reforms

### **Foreclosure procedure**

On 2 August 2019, Parliament passed the Transfer and Mortgage of Property (Amending) (No. 4) Law of 2019 to bring in important changes to the foreclosure procedure. However, the President of the Republic of Cyprus has referred the matter to the Supreme Court in order for the latter to determine its compatibility with the Constitution of Cyprus.

On 3 June 2020, the Supreme Court issued its judgment in Reference no.2/19, rejecting the above petition and decided that the law complies with the Constitution. Therefore, once the law is published in the Official Gazette the following changes to the foreclosure procedure in Cyprus will be made:

- Deadlines extended:
  - to repay the mortgaged debt from 30 days to 45 days;

- to file an appeal from 30 days to 45 days from the date of service of a formal specific letter
- A new ground of appeal at the debtor's disposal for the setting aside the enforcement procedure:
  - if the mortgagee, being a credit institution or a credit acquiring company has refused to or failed to proceed with a restructuring of the credit facilities as prescribed by the law, or such mediation procedure is pending before the Financial Ombudsman and has not yet been concluded

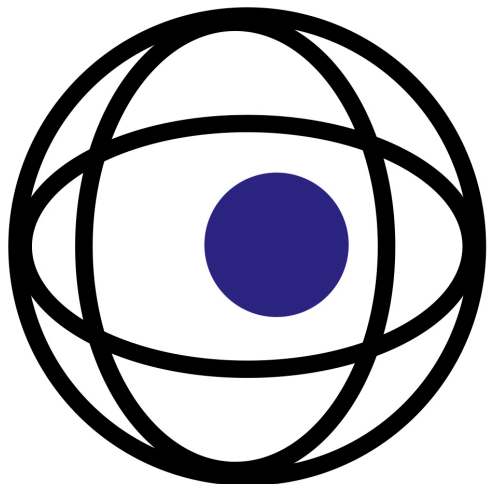
We have expressed our concern with regards to the latter change brought to the foreclosure procedure which can lead to many unfounded applications before the Financial Ombudsman against credit institutions and credit acquiring companies from strategic defaulters, significantly frustrating and slowing down the recovery process.

### **Courts**

In Cyprus all cases in all courts, of every instance and jurisdiction were suspended from 16 March until 4 May with some exceptions. After 4 May, their activity was resumed, the courts reopened and the Supreme Court announced that Judges' vacations will be limited to August to enable the processing of delayed cases due to the Coronavirus crisis.

### **INSOL Europe/LexisNexis Coronavirus Tracker of Insolvency Reforms**

A tracker of insolvency reforms globally produced by LexisNexis in partnership with INSOL Europe is now available: [Coronavirus Tracker of insolvency reforms globally](#).



# INSOL EUROPE

We look at various countries worldwide which are expediting reforms to their restructuring and insolvency laws, temporarily suspending onerous insolvency law provisions, increasing limits for statutory demands, suspending enforcement powers and introducing other measures to deal with the coronavirus crisis. As the situation is rapidly evolving with more countries adding new measures daily, you should contact local lawyers in the relevant jurisdiction to check the current measures in force.

### **INSOL Europe webinars—COVID coffee breaks**

INSOL Europe in partnership with LexisPSL are pleased to present a series of free webinars—'COVID Coffee Breaks'.

The COVID Coffee Breaks are short, 20 minutes webinars, in which two or three INSOL Europe Country Coordinators share their personal experiences of the coronavirus crisis in their countries and give highlights of reforms and changes to their national insolvency framework to address the current crisis.

The webinars published to date (and available on demand) are accessible on INSOL Europe's website here: <https://www.insol-europe.org/publications/web-series>.