

Cyprus: Relief for directors affected by the COVID-19 crisis



In today's financial climate, and the near-total meltdown of the economic system due to the COVID-19 pandemic, business viability depends on access to capital.

The ECB has taken unprecedented measures, making available up to €3 trillion in liquidity at the lowest interest rate ever offered, -0.75%. European banking supervisors have also freed up an estimated €120 billion of extra bank capital, which can support considerable lending capacity for the eurozone banks. However, the effectiveness of these measures in Cyprus will depend on the Cypriot and other governments' initiatives and the decisions to ensure that those companies which need financial support will ultimately benefit from it and that they are given the crucial breathing space they will need.

The current uncertainty imposes the question whether the technocrats and legislators will act with sufficient foresight and speed to introduce legislative measures that will provide the necessary mechanisms to aid the business community to survive and recover.

In Cyprus, bitter experience, through the introduction of Examinership, should have taught us that for any urgent rescue mechanism to function and be effective in assisting ailing companies to survive, it must require minimal court involvement. Beyond that, principles which could be incorporated should include the ability to compromise debts, prior to insolvency, similar to a Liquidator's powers, pursuant to the provisions of section 233(1)(e) of Cap 113 and/or Schemes of Arrangements with creditors in accordance with the provisions of section 198 of Cap 113, enabling all creditors to be treated on a *pari passu* basis.

The suggestion could be made that amendment provisions



be incorporated with the help of professionals with practical experience and that the compromising of securities be expressly prohibited in any Scheme of Arrangement. An additional recommendation is that section 300 of Cap 113, to the extent that it applies to preferential taxes, should be suspended temporarily.

Measures being adopted in the UK¹ could also be emulated in Cyprus, in particular a moratorium period giving companies and businesses the breathing space they will need during this difficult period, going beyond the suspension of loan repayments and interest. The economy in Cyprus is already highly geared, we need other tools, such as effective restructuring mechanisms, to give debtors the lifeline they will need to survive and to introduce amendments to our existing legislation, especially foreclosure powers.

It is abundantly clear that the Examinership regime forced upon us has failed miserably, without a single successful appointment nearly five years after its introduction. Now, more than ever, businesses will need the right tools, financial aid and support if

they are to weather this storm; burdening them with more loans will be the last thing they need, and could be the straw that breaks the camel's back!

One suggestion that could be considered going forward may be that the concepts introduced as part of the EU's Restructuring and Second Chance Directive, adopted in June 2019, with a focus on preventive restructuring frameworks, could assist those responsible for enacting it in Cyprus to introduce mechanisms which will actually function with the Cypriot legal and court system. One can only hope that this time we will get it right. ■

Footnote:

- ¹ See the author's Inside Story, April 2020: 'Relief for Directors in the Coronavirus Crisis: UK Developments and Lessons for Cyprus' at www.insol-europe.org/news/inside-stories



CHRIS IACOVIDES
Director, CRI Group, Cyprus



ANDRI ANTONIOU
Director, CRI Group, Cyprus



Now, more than ever, businesses will need the right tools, financial aid and support if they are to weather this storm

