

Latvia: Amendments to insolvency law and new relief for overindebted individuals



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Several amendments to the Latvian Insolvency Law have been adopted over the course of the Summer. In addition, a separate law providing for the discharge of obligations of natural persons has been passed and will come into force on 1 January 2022. Here is an outline of these changes.

Discontinuation of the insolvency moratorium

The moratorium pursuant to which creditors were precluded from filing for insolvency against their debtors (legal entities) came to an end on 1 September 2021. Further, the suspension of the obligation of the debtor's management board to file for insolvency against the debtor itself will come to an end on 31 December 2021. Both the moratorium and the suspension of the management's obligation formed a part of COVID-19 legislation package and were in place since 23 December 2020.

Changes in the regulation of insolvency office holders

Another set of amendments concerns the regulation of insolvency office holders and is in force as of 7 September.

Given that insolvency administrators and supervisors of restructuring proceedings are so-called obliged persons under the Latvian Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing (national implementation of the 4th AML Directive¹) and can therefore be removed from office due to a violation of the said law, an appropriate restriction has been included in the Insolvency Law for an insolvency administrator or a restructuring supervisor to be readmitted to the profession within five years upon such removal.

In addition, a re-examination period for insolvency administrators has been extended from two to five years. Moreover, changes have been made to the examination and admission of new insolvency administrators. Previously, administrators' entry exams had to be held at least every two years. From now on, the necessity to hold an exam will be assessed from time to time, by the Consultative Council on Insolvency Issues, taking into account the changes in the economic processes, the current workload of the active administrators and other objective parameters.

Law on the Discharge of Obligations of a Natural Person

The Law on the Discharge of Obligations of a Natural Person (*Fiziskās personas atbrīvošanas no parādsaistībām likums*) gives an opportunity for a natural person who is not an entrepreneur or a sole trader to be released from the debts arising from overdue consumer loans via a simplified out-of-court procedure.

The law aims to provide a relief for low-income consumers whose monetary obligations are below the threshold prescribed by the Insolvency Law as one of the entry criteria for insolvency proceedings of a natural person (€5,000). Pursuant to this law, the debtor wishing to be released from the debts must submit a standard form application to a notary, with printouts from the databases of the Bank of Latvia and credit information bureaus indicating the debt obligations enclosed.

If there are no obstacles to the procedure, the notary notifies the creditors indicated in the application, the bailiffs and the authority in charge of maintaining the Insolvency Register.

If the debtor has performed his or her duties during the procedure, the main being the duty to take financial literacy courses within six months from the registration of his or her application, and if there are no unresolved objections from the creditors, the notary makes a decision on the discharge of obligations.

The information on the discharge procedures will be publicly available online by means of the Insolvency Register. The debtor will have certain duties upon the discharge of obligations, such as the duty to seek employment and the interdiction to take new consumer loans. It is notable that the credit institutions and consumer lenders will equally be prohibited from issuing consumer loans to the debtor within two years from the discharge of his or her obligations.

This law will come into force on 1 January 2022. ■

Footnote:

¹ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.



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