



# Latest news on the Italian Code of Business Crisis and Insolvency

After two years of postponement due to the COVID-19 health crisis, the new Code of Business Crisis and Insolvency will finally come into force on 15 July 2022. Though the aim of the Code initially was to transpose Directive 2017/1132, amended by the Preventive Restructuring Directive (Directive 2019/1023), the health crisis and its negative impact on the economy and business activities reinforced the urgency of adopting such a mechanism in response to the increased number of companies in financial difficulties or insolvent.

The Code of Business Crisis and Insolvency was first introduced by Legislative Decree no. 14 of 12 January 2019, implementing Law no. 155 of 11 October 2017. Subsequently, as reported in previous editions of Eurofenix (specifically the Autumn 2019 edition), some provisions of the 391 articles came into force 30 days after the publication of the Legislative Decree in the Official Gazette on 14 February 2019, in particular the following provisions:

- Article 356 concerning the creation of a single National Register of Experts;
- Article 375 related to the requirement for the entrepreneur to establish an organizational, administrative and accounting structure to favour the timely detection of crisis and to adopt and implement one of the instruments provided by the law to overcome crisis and recover business continuity;
- Article 378 requiring directors of limited liability companies to employ a higher degree of attention in a situation of company crisis, at the risk of



being liable to the company's creditors where the company's assets are insufficient to satisfy their claims; and

- Article 379 extending the cases in which limited liability companies are forced to appoint the controlling body or the auditor to facilitate the detection and timely management of crisis.

The remaining provisions should have come into force in August 2020. Nevertheless, due to the COVID-19 crisis, on 24 August 2021, Decree-Law no. 118, introducing urgent measures in the field of corporate crisis and corporate recovery, postponed the entry into force of the Code of Business Crisis and Insolvency to 16 May 2022. Finally, the Council of Ministers resolution no. 72 of 13 April 2022 approved the Legislative Decree containing “urgent measures for the implementation of the National Recovery and Resilience Plan”, which amends Article 389 of the

Code, enabling the decree to come into force on 15 July 2022.

According to the recommendations of Directive 2019/1023, the new Code of Business Crisis and Insolvency will:

- provide a systemic and organic framework for the bankruptcy and insolvency regime;
- reduce the duration and cost of insolvency proceedings;
- uniformize and simplify the legislation on various special proceedings; and
- prioritize dealing with proposals that lead to the overcoming of the crisis by ensuring business continuity.

Furthermore, it will also reassure external investors wishing to invest in Italy, who were facing some uncertainties regarding solvency rules or the risk of prolonged and complex insolvency procedures. ■



**GIORGIO CHERUBINI**  
Founding Partner, EXPLegal,  
Rome & Milan, Italy



**GIOVANNA CANALE**  
Associate, EXPLegal,  
Rome & Milan, Italy



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