

May 2013

## Monitor of Bankruptcies, Insolvency Proceedings and Business Closures

First Quarter 2013





## Boom in “reserved” voluntary arrangements

*Bankruptcy rate flares up and other insolvency proceedings also increase*

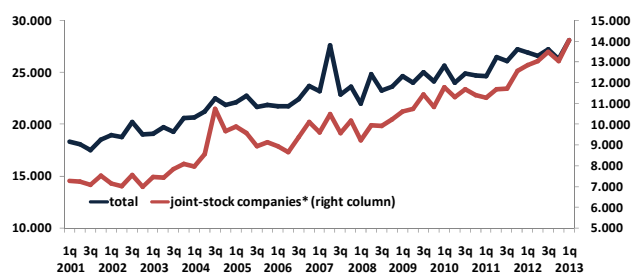
### Summary

In the first three months of 2013, the number of business closures sped up: according to Cerved Group’s archives, about 23,000 companies began insolvency proceedings or voluntary liquidation, a 7% year-on-year increase.

Another record was broken in the number of bankruptcies: over 3,500 companies were declared bankrupt between January and March (+12% year-on-year), reaching the highest level ever recorded for a single quarter in over a decade. Also according to estimates, about 19,000 companies in good standing voluntarily (i.e., without insolvency proceedings) decided to close their doors, or 5.8% more than in the first quarter last year. Yet the most remarkable phenomenon of the first quarter of 2013 was a sharp 76% year-on-year increase in the number of voluntary arrangements with creditors, leading to a 13% increase in the total number of non-bankruptcy insolvency proceedings. An analysis of Italian Business Registry data (see the Focus at the end of this report for details) indicates that this sharp rise is a result of reforms in Italian bankruptcy law introduced last September, especially the introduction of the “reserved” or “incomplete” voluntary arrangement. Under this new form of arrangement, companies may apply to the courts to prevent creditors from taking executive action (including with retroactive effect) without having to present a restructuring plan in advance. This possibility has evidently been very much appreciated by businesses: from the day this reform was introduced up to

**Insolvency proceedings and liquidations**

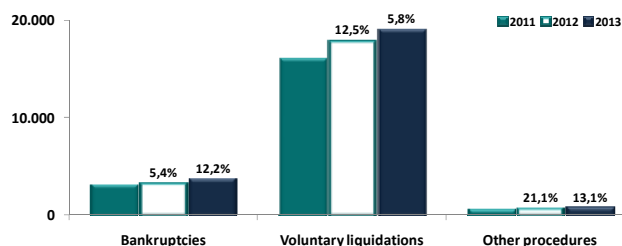
figures seasonally adjusted and corrected for the number of working days



Source: Cerved Group. \*excludes companies that did not submit any valid financial statements in the three years prior to winding-up

**Businesses ceasing activity, by type of procedure**

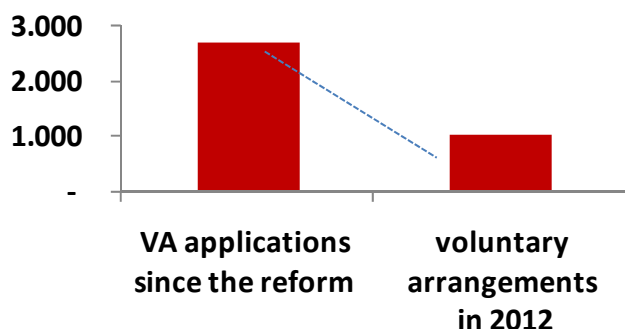
Number of procedures and year-on-year growth rates for the first quarter of each year



Source: Cerved Group



## Impact of the reform



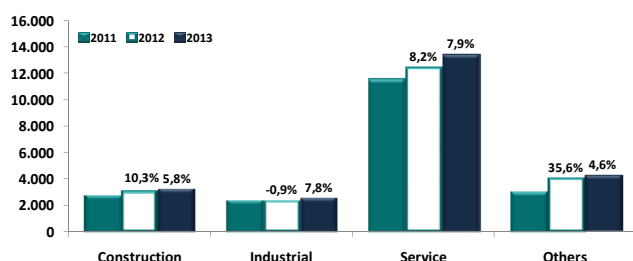
31<sup>st</sup> March of this year, an estimated 2,700 applications were submitted, which was more than double the number of traditional applications for voluntary arrangements (those inclusive of restructuring plans) submitted in all of 2012. A closer look at the characteristics of the companies that opted for the new type of

arrangement suggests that the Government has achieved its aim of urging businesses to confront financial distress at an early stage. These companies, unlike those going bankrupt, are still operating businesses and their crisis phase appears to be less acute.

Breaking down the data by sector, all macro-sectors analysed show an increase in business closures: +5.8% in construction, +7.8% in services and +7.9% in manufacturing. In both the construction and tertiary macro-sectors, there has been a negative trend in place for many quarters now, whereas the closures trend in the industrial sector had slowly improved in 2012 before the increase seen in the first quarter of this year. Business closure numbers are also on the rise throughout most of the country, at a double-digit pace in northern Italy (+14.5% in the North-East, +11.3% in the North-West) a somewhat more moderate rate in central Italy (+7.3%) and a slight decrease in the South and Islands (-2%), where a substantial reduction in the number of voluntary liquidations masked an increase in the number of bankruptcies.

Insolvency proceedings plus liquidations in the first quarter, by macro-sector

number of proceedings and year-on-year percent changes



Source: Cerved Group

Insolvency proceedings plus liquidations, by geographical area

number of proceedings and year-on-year percent changes



Source: Cerved Group



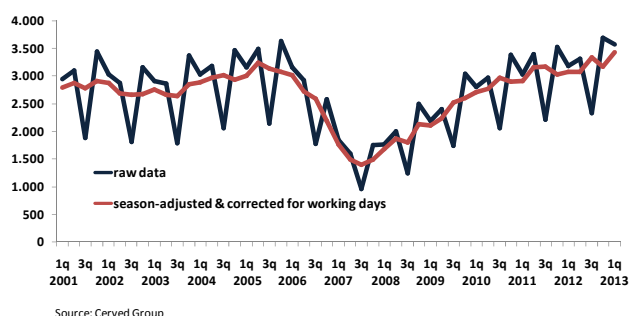
## Bankruptcies

In the first quarter of 2013, the number of new bankruptcy proceedings opened shot up to over 3,500, 12.2% more than in the first quarter of 2012 and reaching a new all-time high for the January-March period since quarterly data collection began in 2001.

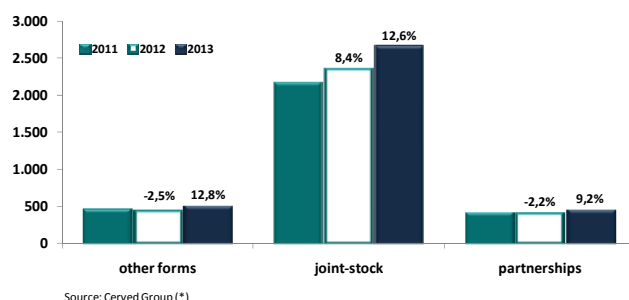
Bankruptcies among joint-stock companies also continued to rise considerably in 1Q 2013 (+12,6%). This dynamic has been in place for several years now and is partly due to a series of Italian bankruptcy law reforms. Similarly, the number of bankruptcies rose among partnerships (+9.2%) and among businesses with other legal statuses (+12.8%), although the latter had seen a decrease in the past few quarters.

Half of the bankruptcy proceedings initiated between January and March were for service sector companies, amounting to a 14% year-on-year increase for that macro-sector. Bankruptcy numbers also grew in the industrial sector, the only macro-sector to report a decrease in 2012: in the first quarter of 2013, 639 manufacturing companies went bankrupt, a 10.6% year-on-year increase. Unlike the manufacturing sector, the construction sector bankruptcy trend has been deteriorating for a long time, and continued to do so in the first quarter of this year: 796

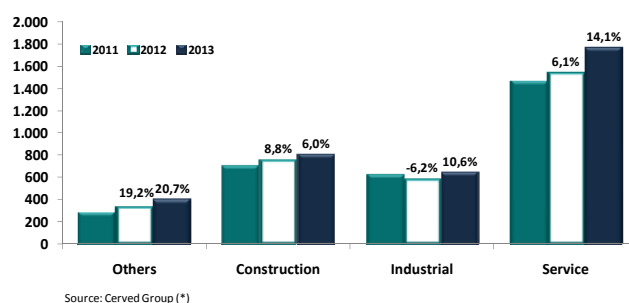
**Bankruptcy trend**  
quarterly data



**First-quarter bankruptcies: breakdown by legal status**  
Number and year-on-year growth rates



**Bankruptcies in 1Q: breakdown by macro-sector**  
Number and year-on-year growth rates



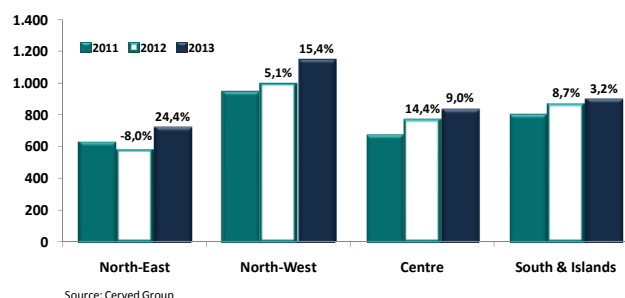


bankruptcy proceedings were opened, 6% more than in the first quarter of 2012.

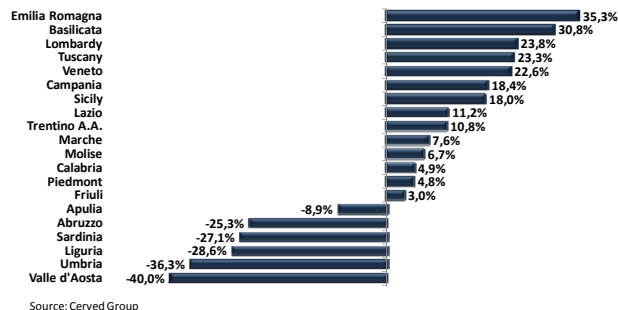
Bankruptcy trends also changed geographically speaking: in the North-East, where the number of defaults had previously been decreasing since mid-2011, there was a sudden sharp increase of 24% year-on-year in 1Q 2013. However, no area of the country escaped the general increase in the bankruptcy rate: the number of bankruptcies grew at a double-digit pace in the North-West (+15.4%), at a slightly lower pace in central Italy (+9%) and even more moderately (+3.2%) in southern Italy, Sardinia and Sicily.

Among individual regions, a surge in bankruptcies was registered in the first quarter of 2013 in the regions characterised by highly intense industrial activity such as Emilia Romagna (+35%), Lombardy (+24%), Tuscany (+23%) and Veneto (+23%); bankruptcy procedure numbers also went up by a double-digit rate in Campania (+18%), Sicily (+18%), Lazio (+11%) and Trentino Alto Adige (+11%). The only regions where bankruptcy numbers decreased were Apulia (-8.9%), Abruzzo (-25%), Sardinia (-27%), Liguria (-29%) and Umbria (-36%).

**Bankruptcies in 1Q: breakdown by geographical area**  
Number and year-on-year growth rates



**Bankruptcies in 1Q: regional trends**  
percent change from 1Q 2012 to 1Q 2013







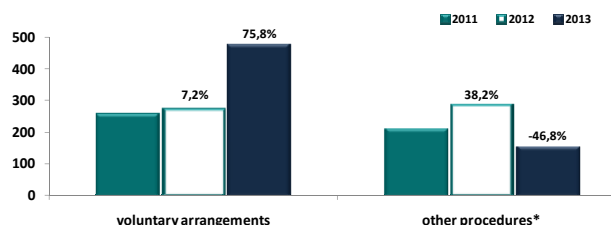
## Non-bankruptcy insolvency proceedings

In the first quarter of 2013, there were 623 insolvency proceedings other than bankruptcies<sup>1</sup>, a 13% year-on-year increase. This overall upsurge is the sum of very different dynamics within each set of proceedings. Voluntary arrangements, thanks to the new “reserved” format (see the Focus for details), have truly boomed: 473 voluntary arrangement procedures began between January and March 2013, a 75.8% increase from the 269 registered in the first quarter of 2012. Vice-versa, there was a clear decrease in all other types of insolvency proceedings considered here (restructuring agreements, supervised administration, extraordinary administration, and forced liquidation and insolvency proceedings), as the total of these fell to 150 in the first quarter, 47% less than in 1Q 2012.

Non-bankruptcy insolvency numbers rose sharply in the construction sector (+26% year-on-year) and in the industrial sector (+23.5%), but by a moderate 2.3% in the tertiary sector. From a geographical viewpoint, non-bankruptcy proceedings grew very fast in the Centre (+33%) and North-East (+24.2%), but remained stable from 2012 in the North-West and actually decreased by 1.9% in the South and islands.

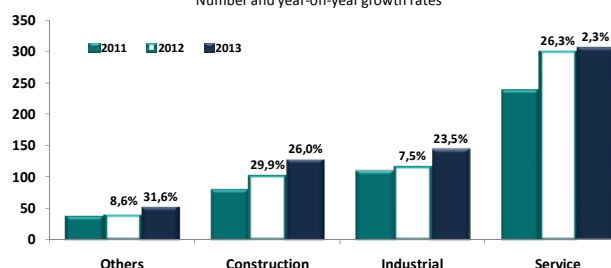
<sup>1</sup>Excludes business registry cancellations, dissolutions by regulatory authorities and court-ordered proceedings

**Non-bankruptcy proceedings in 1Q: breakdown by type**  
Number and year-on-year growth rates



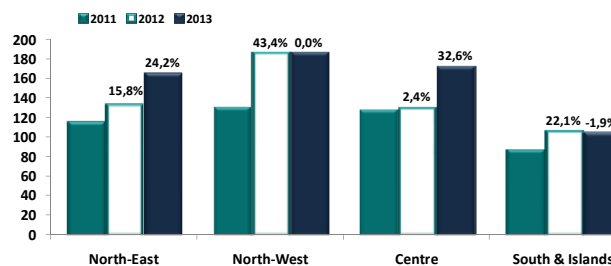
Source: Cerved Group. Excludes proceedings for business registry cancellations, dissolutions by regulatory authorities and court-ordered proceedings

**Non-bankruptcy proceedings in 1Q: breakdown by macro-sector**  
Number and year-on-year growth rates



Source: Cerved Group. Excludes proceedings for business registry cancellations, dissolutions by regulatory authorities and court-ordered proceedings

**Non-bankruptcy proceedings in 1Q: breakdown by geographical area**  
Number and year-on-year growth rates



Source: Cerved Group. Excludes proceedings for business registry cancellations, dissolutions by regulatory authorities and court-ordered proceedings



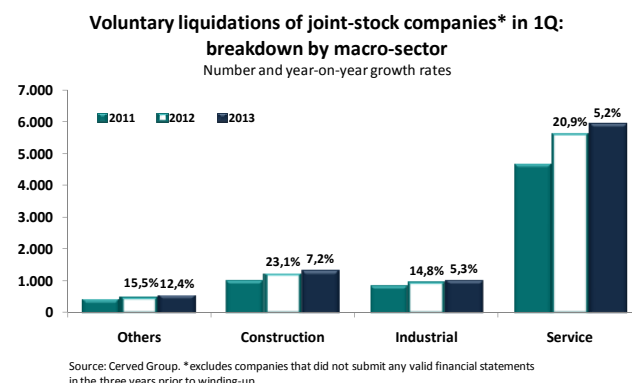
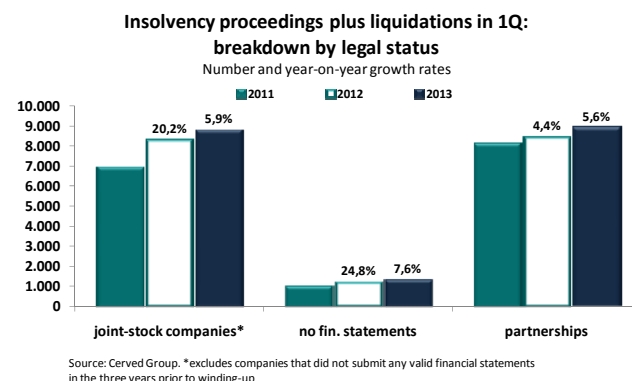
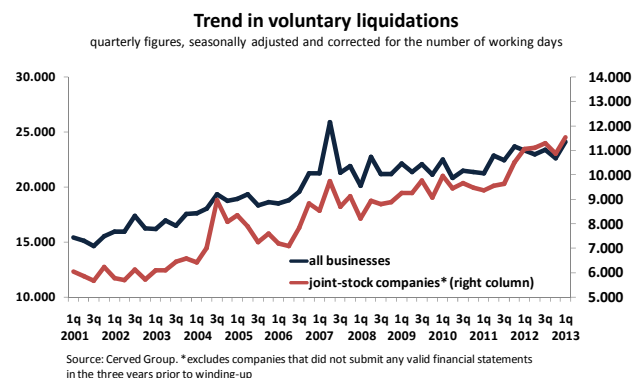
## Voluntary liquidations

It is estimated<sup>2</sup> that between January and March, about 19,000 Italian companies in good standing (that is, companies that had no prior voluntary arrangements) initiated voluntary liquidation procedures; this is about 6% higher than in the first quarter of 2012. Thus, in the ongoing economic crisis, rising insolvency rates continue to be accompanied by a growing number of businesses that voluntarily fold.

Voluntary liquidation numbers increased among both partnerships (+5.6%) and joint-stock companies (+6.1%). If we then exclude effectively dormant companies (those that had not submitted any valid financial statements during the three years prior to liquidation), there were still nearly 9,000 active companies that voluntarily liquidated their businesses in the first three months of 2013; this is 5.9% more than a year ago.

More than two-thirds of the 'real' joint-stock companies that were liquidated in 1Q 2013 were service sector operators; voluntary liquidations in the sector went up by 5.2% year-on-year. A similar increase was seen in the industrial sector, with about one thousand

<sup>2</sup>Due to delays in Chamber of Commerce database updates, liquidation figures are estimated for the most recent quarter and then corrected and updated to show the actual number in the subsequent Monitor report. The actual fourth quarter 2012 number is about 40,000 (vs. an estimate of 43,000).

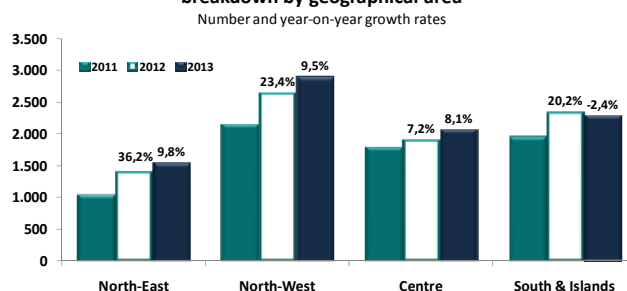




voluntary liquidations in the first quarter. Finally, in construction there was a substantial (7.2%) year-on-year increase to 1,309 procedures.

Geographically speaking, the number of voluntary liquidations dropped in southern Italy and the islands (-2.4%), but increased throughout the rest of the country, at growth rates of 9.8% in the North-East, 9.5% in the North-West and 8.1% in the Centre.

**Voluntary liquidations of joint-stock companies\* in 1Q:  
breakdown by geographical area**



Source: Cerved Group. \*excludes companies that did not submit any valid financial statements in the three years prior to winding-up

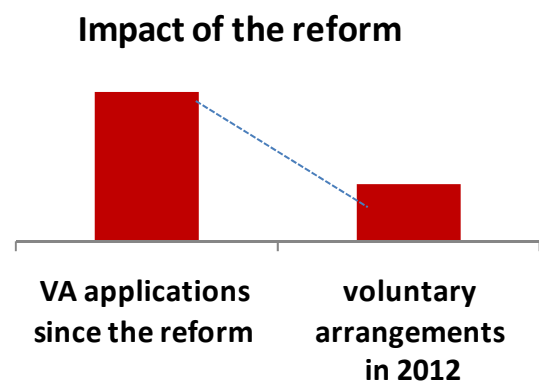
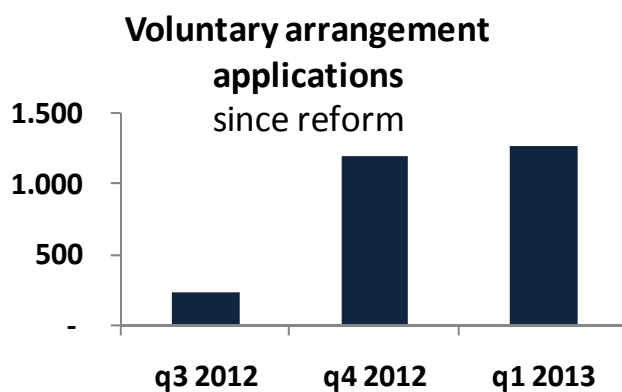




### The reserved voluntary arrangement proves popular

On 11th September last year, some changes to Italian bankruptcy law took effect; the goal of these changes is to draw early attention to businesses in crisis situations and provide an incentive for companies to reach a mutual agreement with their creditors.

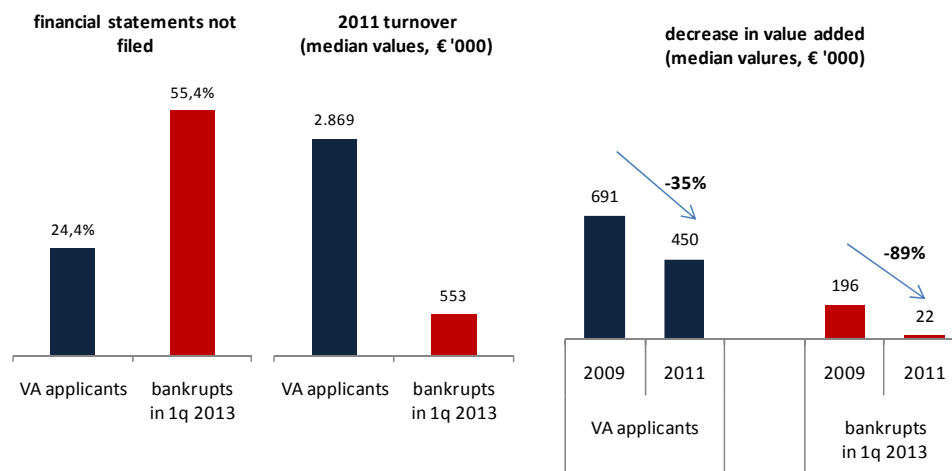
The most noteworthy change is related to voluntary arrangements with creditors. Companies are now effectively allowed to submit an “incomplete” or “reserved” request for a voluntary arrangement. The application must include essential content such as commitment by the debtor, indications from the judge, and a formal request to open negotiations and to set a deadline to reach an agreement<sup>3</sup>; however, unlike the standard voluntary arrangement requests, it does not include a restructuring plan to be submitted within a timeframe set by the judge (which is normally 60 to 120 days, extendable for another 60 days). Thus, the court can only declare such requests inadmissible if the minimum content is not provided or if the debtor has previously presented an incomplete application without subsequently submitting a restructuring plan. Once accepted, this request has significant immediate legal effects: the debtor’s assets are protected from seizure, so as to facilitate business restructuring. The motion blocks any attempted executive action by creditors, even with retroactive effect, upon publication in the Business Registry, and gives the entrepreneur permission to terminate or temporarily suspend any contracts impeding the company from managing its crisis situation.



<sup>3</sup> V. Assonime, *Le nuove soluzioni concordate alla crisi d'impresa*, Circolare N.4/2013



## Comparison of business characteristics: voluntary arrangement applicants vs. bankrupt companies in 1Q 2013



Data analysed by Cerved Group indicate there has been a real boom in formal voluntary arrangement requests, showing that businesses appreciate the new legislation. According to our estimates, from the date it was introduced on 11<sup>th</sup> September 2012 to 31<sup>st</sup> March 2013, about 2,700 voluntary arrangement motions were filed, of which nearly 1,300 in the first quarter of 2013. This is a very high number, especially considering that only 1,102 'old' requests (those inclusive of a restructuring plan) were submitted in all of 2012. Presumably, many companies used this tool with a view to liquidation; in fact, about 37% of the companies examined were already in liquidation before submitting the "incomplete" voluntary arrangement forms.

A closer look at the characteristics of the companies that have opted for the new type of arrangement, especially if compared with traits of companies that went bankrupt, suggests that the Government has achieved its aim of urging businesses to confront financial distress at an early stage. Failure to fulfil the obligation of submitting financial statements is often a useful indication that even before starting insolvency proceedings, a certain company effectively already stopped doing business. Now, 24% of the companies that requested voluntary arrangements had failed to submit financial statements, compared to 55% of the companies that went bankrupt during the first three months of 2013. Even considering only the companies that did submit financial statements, the data confirm that businesses submitting voluntary arrangement requests are in very different situations from bankrupt companies: the former are not only much more productive (with average turnover 5 to 6 times greater), but have also experienced much less drastic declines in value added than the companies that went bankrupt, highlighting that the voluntary arrangement is used in a less acute business crisis phase.

Because the legislative changes came into force only recently, the conclusions drawn here regarding the use of the "incomplete" voluntary arrangement are only preliminary. Of the companies that have made use of this new type of request, three-fourths have not initiated new insolvency procedures so far; these are companies for which the deadline to reach an agreement has not passed and that were active or in liquidation prior to submitting the request. Of the remaining quarter of companies (those that have begun subsequent insolvency proceedings), the most frequent result is a voluntary arrangement (338 cases, 12.5% of the total), followed by a declaration of bankruptcy (209 cases, or 7.7%) and liquidation (100 cases, 3.7%).