

News Flash

February, 2015



**Fundamental changes in bankruptcy
and restructuring law in Poland**

Fundamental changes in bankruptcy and restructuring law

On January 1st 2016 the Act on Restructuring dated May 15th 2015 (Dz.U. z 2015 r. poz. 978) came into force. Previous Act on Bankruptcy and Reorganization remains in force with the its name changed to Bankruptcy Law. As of January 1st all provisions referring to reorganization proceedings and bankruptcy proceeding with a possibility to make an arrangement were repealed and now this matter is governed by the new Act on Restructuring.

Four ways to make an arrangement

Act on Restructuring introduces four new types of restructuring proceedings:

- accelerated arrangement proceeding,
- arrangement approval proceeding,
- arrangement proceeding,
- remedial proceeding.

The difference between them is the scope of protection granted to the debtor and the role of the court in the proceeding. First two introduce simplified procedure, with the minimized role of the court. The arrangements regarding reorganization plan are left mostly to the debtor and his creditors. The third procedure is arrangement proceeding and it is meant as a replacement of the previous regulation. The remedial proceeding involves complex reorganization under the strict supervision of the court. Multiple procedures allow for flexible solutions which may be chosen by the entrepreneur according to severity of financial problems and the condition of the business.

The new definition of insolvency

According to the new regulation there are 2 situations when the debtor can be declared insolvent.

Firstly, the debtor is insolvent if he has lost the ability to fulfill his due and demandable pecuniary liabilities. The loss of the ability to fulfill liabilities takes place when the delay in fulfilling pecuniary liabilities exceeds three months.

Secondly, the debtor is insolvent when his pecuniary liabilities exceed the value of his assets for a period of over 2 years.

Furthermore, from January 1st the debtor has to file the bankruptcy petition within 30 days from the day on which grounds for the declaration of bankruptcy arose. Previously this period amounted to 14 days only.

Central Reorganization and Bankruptcy Register

The new Act includes provisions on the establishment (in 2018) of the Central Reorganization and Bankruptcy Register. The register will contain information about bankruptcy and restructuring proceedings. It will be also used to announce court resolutions and other information on the matter of ongoing proceedings. The standard forms of official letters will be made available on the website of the Register. There will be also a possibility to file motions and other documents electronically, which will lower the cost of proceeding.

The State Treasury equal to other creditors

New provisions abolish the privilege of satisfying public burdens. Consequently the position of the State Treasury will be equal to the position of other creditors. It is not, however, an absolute principle. The claims of payment of social contributions arrears for the last 3 years before the declaration of the bankruptcy are excluded from this general rule.

Disclaimer

Please note that our publications have been prepared for general guidance on the matter and do not represent a customized professional advice. Furthermore, because the legislation is changing continuously, some of the information may have been modified after the publication has been released. Accace does not take any responsibility and is not liable for any potential risks or damages caused by taking actions based on the information provided herein.

Contact

Agnieszka Samborska

Legal Adviser

E-Mail: Agnieszka.Samborska@accace.com

Phone: +48 504 021 963



About Accace

With more than 250 professionals and branches in 7 countries, Accace counts as one of the leading outsourcing and consultancy services providers in Central and Eastern Europe. During past years, while having more than 1400 international companies as customers, Accace set in motion its strategic expansion outside CEE to become a provider with truly global reach.

Accace offices are located in Czech Republic, Hungary, Romania, Slovakia, Poland, Ukraine and Germany. Locations in other European countries and globally are covered via Accace's trusted partners network.

More about us on www.accace.com

