

SUSPENSION OF THE OBLIGATION TO FILE FOR INSOLVENCY

Taking into account the exceptional situation caused by the Covid-19 pandemic and to anticipate financial difficulties that companies may encounter in this context, the Luxembourg Government has decided to suspend the deadline for filing for insolvency.

SUSPENSION OF MANAGERS' OBLIGATION TO FILE FOR INSOLVENCY

The Grand Ducal Regulation of 1 April 2020 has amended the Grand Ducal Regulation of 25 March 2020 on suspension of procedural deadlines in judicial matters, in order to *inter alia* also suspend, during the state of emergency (currently from 18 March to 18 June 2020¹), the 30 days period starting on the date of the cessation of payments and during which the managers of a company are obliged to file for insolvency.

This does however also mean that directors are still allowed to file for insolvency, and may feel obliged to do so depending on the circumstances and that creditors can petition for insolvency. Any procedure for the insolvency of a debtor started by creditors will however take a certain time and if the company solves its liquidity issues prior to the judgement and is again able to pay its creditors, then it is no longer in cessation of payments and no judgement opening an insolvency should normally be rendered.

NEW BILL ON INADMISSIBILITY OF CREDITORS' INSOLVENCY PETITIONS

In addition to the above measure, the largest opposition party has introduced a bill that would prevent any creditor from petitioning for the opening of insolvency procedures during the current state of emergency and the 2 following months. The text of the bill does not distinguish between companies whose financial difficulties are related to the Covid-19 pandemic or not. Since this bill has not been proposed by the Government, it remains uncertain whether it will be adopted.

Key aspects:

- The obligation to file for insolvency is suspended during the state of emergency.
- Managers can still file for insolvency depending on the circumstances.
- Creditors can petition for insolvency. A new bill intends to prevent such petition during the state of crisis and the two following months.

This briefing speaks as of 22 April 2020.

¹ Date subject to extension.

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