

Greece

KGDI Law Firm

Reform of Greek Insolvency Law

New Law 4013/2011, which was published on September 15 2011, substituted the provisions of the Greek Bankruptcy Code for the conciliation procedure and introduced the new Rehabilitation Procedure.

The main goal of the new law is the enhancement of the prospects of rescuing an enterprise during the pre-bankruptcy stage by lifting the key drawback of the conciliation procedure: the lack of binding effect upon creditors who did not consent to the rescue plan.

Briefly, the main characteristics of the new provisions are:

- the binding effect of the rehabilitation procedure also upon dissenting creditors;
- flexibility for the conclusion of the agreement before the commencement of official proceedings;
- expansion of the content of the rehabilitation procedure; and
- re-introduction of the process of special liquidation.

The basic provisions of the New Law are as follows:

Debtors who have already reached the state of the cessation of payments may also benefit from the new provisions and seek to enter this pre-bankruptcy procedure.

An application for entry in the rehabilitation procedure must be accompanied by an expert report. The expert, who is elected by the debtor, must be either a credit

institution, auditor or audit firm.

The suspension of individual enforcement acts of creditors may also be extended to guarantors or other co-debtors. Provisional measures may not affect financial collateral agreements and close-out netting clauses pursuant to Law 3301/2004 (implementing EU Directive 2002/47).

The rehabilitation agreement must be concluded within a deadline of four months (with the possibility of extension

under certain circumstances) starting from the date of the issuance of the decision of the Court for its opening.

The convocation of the creditors' assembly is optional. For the acceptance of the plan of the rehabilitation procedure, a majority of 60% of claims is required, including at least 40% of creditors secured by *in rem* securities or holding a special lien or a pre-notice of mortgage.

It is possible for the debtor to reach an agreement with creditors representing the above majority percentages (60-40%) by means of confidential negotiations before the commencement of the formal rehabilitation procedure (in a manner similar to the model of pre-packaged plans).

Following the ratification of the rehabilitation agreement, it has a binding effect even on dissenting creditors.

The procedure of special liquidation is re-introduced mainly for cases where it is possible for the business to be rescued as a going concern by means of a quick sale of its assets to interested investors.

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