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Impact of COVID-19 on Insolvency Laws:

How Countries Are Revamping Their Insolvency and Restructuring Laws to Combat COVID-19

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Contents

Around the globe, our lawyers are receiving a large number of enquiries about mitigating the impact of the coronavirus disease 2019 (COVID-19) on companies' business operations and finances. Governments in several countries have reacted quickly to try to mitigate COVID-19's impact by changing or amending their insolvency laws. This memorandum is an overview of the key changes in restructuring and insolvency laws that select countries have undertaken in response to the COVID-19 pandemic.

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1. Australia

The Australian government has taken swift action to enact new legislation that significantly changes the insolvency laws relevant to all business as a result of the ongoing developments related to COVID-19.

The Coronavirus Economic Response Package Omnibus Act 2020 (Response Act) became effective on March 25, 2020, and is an effort to provide temporary relief to companies experiencing financial distress as a result of the ongoing and rapidly changing economic slowdown caused by COVID-19.

The COVID-19 Response Act

The amendments of the Response Act are temporary and will apply for six months, until September 23, 2020. However, subject to economic and health developments, the provisions may be expanded in both their application and scope.

Key Aspects of the Response Act

Safe Harbor for Insolvent Trading	The most significant temporary relief relates to directors' duties to prevent insolvent trading. The Response Act adds a new section to the Corporations Act 2001 (Corps Act), providing directors with a new safe harbor during the six-month period, which protects them from incurring personal liability for insolvent trading for debts incurred in the ordinary course of their businesses. The new relief measures protect directors from personal liability, provided that the transactions that the company enters into (i) are in the ordinary course of business after the enactment of the Response Act, and (ii) occur prior to the engagement or appointment of any external administrator.[1]
Increase in Dollar Thresholds and Extension of Deadlines	• The minimum dollar threshold to issue a creditors' statutory demand[2] is raised from AU$2,000 to AU$20,000. • The deadline for a company to respond to a creditors' statutory demand is increased from 21 days to six months. • The minimum dollar threshold for a creditor to initiate bankruptcy proceedings against a debtor is raised from AU$5,000 to AU$20,000. • The deadline for a company to respond to a creditors' initiation of the bankruptcy proceedings is extended from 21 days to six months. • The protection under the declaration of intention[3] is extended from 21 days to six months. The amendments implemented by the Response Act recognize that, if companies are to survive the challenges posed by the virus and its associated economic slowdown, directors will need to address the financial challenges of their businesses in new and potentially expanded ways, including obtaining new debt, seeking credit, raising equity and moving business operations away from traditional headquarters while retaining and enabling a more mobile workforce.

1 Administrators are similar to trustees and/or receivers in the US.
2 Creditors with undisputed debt of a minimum dollar threshold (originally of AU$2,000; now, temporarily, AU$20,000) may issue a formal demand for payment of their debt. If the company fails to pay the debt by the deadline (originally of t21 days; now, temporarily, of six months), the company will be deemed insolvent.
3 A declaration of intention provides the company with a period of time (originally 21 days; now, temporarily, six months), during which the debtor can decide whether it wants to declare bankruptcy. During this time, unsecured creditors cannot take action against the debtor.

	Ordinary Course of Business? It is noteworthy that the relief under the new measures will only be afforded to new debts incurred in the "ordinary course of business". Accordingly, much will depend on the scope and application of that term to different types of businesses. The explanatory memorandum to the Response Act provides that: "A director is taken to incur a debt in the ordinary course of business if it is necessary to facilitate the continuation of the business during the six-month period that begins on commencement of the subparagraph. This could include, for example, a director taking out a loan to move some business operations online. It could also include debts incurred through continuing to pay employees during the coronavirus pandemic." Given the wide-ranging impacts of the virus and consequent economic slowdown, businesses in different sectors may be affected in varying ways and magnitudes. Directors should seek appropriate advice before taking on any significantly new or different types of debt.
Further Regulations and Guidance	The Response Act will be supplemented by regulations, which have not yet been released. The regulations will likely provide more guidance and clarify the circumstances in which the relief measures apply. Directors should seek appropriate advice on both the newly enacted temporary relief and the regulations before they take action. Further, directors should note that none of the relief measures are intended to, or permit, the delay of debts payments during the relief period. Accordingly, where debts cannot be paid as and when they become due, directors should seek appropriate advice and otherwise engage with their stakeholders and in particular, their priority creditors under the Corps Act.
Statutory Lodgement[4] and Reporting Obligations	Traditional safe harbor protections under the Corps Act are predicated on companies' compliance with statutory lodgement and reporting obligations to appropriate authorities, including, but not limited to, the Australian Taxation Office. These prerequisites have not been extended to the new safe harbor protections under the Response Act. However, directors should endeavor to discharge their reporting and priority creditor obligations as appropriate.

[4] This term is used to refer to the filing of documents with the relevant authority.

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2. Belgium

Belgium has introduced a moratorium on insolvency proceedings and execution-related proceedings.

Moratorium on Insolvency Proceedings	The moratorium benefits all businesses (whether companies, not-for-profits or self-employed workers) who are affected by the COVID-19 crisis (and the consequences thereof) insofar as such businesses were not in a state of cessation of payments on March 18, 2020. The moratorium entered into force on April 24, 2020 and will expire on June 17, 2020 (the moratorium is subject to possible extensions). The moratorium applies to all execution measures (including seizures), with the exception of those applying to real estate or to conservatory seizures on ships and boats in respect of any of the affected business' debts. Furthermore, third parties cannot start bankruptcy proceedings and no judicial winding-up proceedings can be started against affected businesses (with the exception of proceedings started by a public prosecutor, by a judicial director or in respect of procedures that the affected business has consented to). For businesses that are subject to a plan approved in the context of a judicial reorganization procedure (i.e., a procedure similar to a Chapter 11 procedure) payment terms are extended by the term of the moratorium. For the duration of the moratorium, the rule whereby loans or security granted to a company that meets bankruptcy conditions are deemed not to be opposable to the other creditors is suspended (insofar as the bankruptcy conditions result from the Covid 19 crisis). Any person may, nevertheless, challenge the applicability of the moratorium by petitioning the president of the business court if there are reasons that would justify the moratorium being lifted in whole or in part *vis-à-vis* a business (i.e., if the company is not affected by the current COVID-19 crisis).
Suspension of obligation to file for bankptuptcy	During the duration of the moratorium, the obligation for directors to file for bankruptcy if bankruptcy conditions are fulfilled is suspended.
No termination for payment defaults	In addition, parties may not terminate agreements (whether unilaterally or judicially), with the exception of labor agreements, as a result of the breach of payment obligations by an affected business. Other remedies such as netting, retention rights and the suspension of the creditor's own obligations are, however, still available to an unpaid creditor.

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3. China

While there have been no changes to the insolvency laws in the People's Republic of China (PRC) in response to the COVID-19 pandemic, numerous government authorities in China have adopted measures and policies to aid businesses in their efforts to reduce operational costs and survive the economic downturn.

In addition, some PRC courts have issued guidance on how bankruptcy cases initiated in response to COVID-19 should be handled.

Governmental Measures and Policies

Bank and Insurance Regulatory Commission	Banks and insurance companies are required to enhance their support for businesses in the areas impacted by the pandemic, including exempting or reducing service charges and commissions, simplifying processes and opening shortcut channels for credit. Financial institutions are also required to increase credit support in the areas of pandemic prevention and control and are prohibited from withdrawing, cutting off or suppressing loans blindly.
State Administration of Taxation and Ministry of Finance	A series of tax incentives has been granted to businesses affected by the pandemic to be exempted from, reduce or defer tax payments.
National Development and Reform Commission and Ministry of Industry and Information Technology	Reductions in the prices of utilities, including power, water and gas, and payment deferral will also be permitted.
Municipal/Local Governments	From February to June 2020, pension, unemployment insurance and labor injury insurance contributions by employers are now exempted or reduced by half, depending on the type and location of the business. Governments are also encouraging landlords to reduce rent obligations. The Shanghai government has implemented a rent exemption for small and medium businesses for February and March 2020, which is applicable if the leased property is owned by state-owned entities, which occurs mostly in development and industrial sectors.

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Courts' Guidance for Bankruptcy Cases

Heightened Reluctance to Initiate of Bankruptcy Proceedings	Banks and insurance companies are required to enhance their support for businesses in the areas impacted by the pandemic, including exempting or reducing service charges and commissions, simplifying processes and opening shortcut channels for credit. Financial institutions are also required to increase credit support in the areas of pandemic prevention and control and are prohibited from withdrawing, cutting off or suppressing loans blindly.
Support for Businesses Engaged in the Manufacture and Sales of Materials for Pandemic Prevention and Control	According to Article 26 of the PRC Bankruptcy Law, before the first creditors' meeting, a bankruptcy administrator may decide to continue or halt the business of the debtor, subject to the court's approval. In such circumstances, many courts are encouraging those debtors engaged in the manufacture, sale or logistics of materials for pandemic prevention and control to continue their businesses, and the courts seem inclined to approve such business continuance when decided by bankruptcy administrators.
Encouragement of Conversion of Bankruptcy Liquidation to Restructuring/Reorganization or Settlement	According to Articles 70 and 95 of the PRC Bankruptcy Law, after a court accepts a bankruptcy application but before the court declares the bankruptcy of the debtor, the debtor may apply to the court to convert the bankruptcy liquidation process to a restructuring or settlement process. In the present circumstances, many courts are encouraging such conversions to help the debtors survive. This is particularly true for debtors engaged in the manufacture, sale or logistics of materials for pandemic prevention and control.
Procedural Updates	During the pandemic prevention and control period, courts are prioritizing an online process for handling bankruptcy matters, such as hearings, creditors' rights declaration and reviews, bankrupt business property investigations and creditors' meetings. Courts are also permitting time extensions for relevant procedures in case of any delay caused by the pandemic to protect the interests of the parties involved.

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4. Czech Republic

The Czech Republic has approved the following measures.

Special Moratorium	A newly introduced special moratorium has been constructed to protect a debtor against the court decision regarding its insolvency, enabling the debtor to keep its business going. One of the key differences between the "classic" and "special" moratorium is that creditors' consent is not required in case of a special moratorium. Special moratorium can be requested by a debtor until August 31, 2020 under the condition that the debtor petitioning for the special moratorium was not insolvent on March 12, 2020. Special moratorium will be granted by a court decision and will last up to three months. It can be prolonged for another three-month period upon the request of the debtor and with the consent of its creditors.
Insolvency Petitions	Another significant aspect of the newly introduced legislation concerns insolvency petitions. • Debtor insolvency petitions: – Suspension of the obligation to file for insolvency until six months after the COVID-19 special measures are terminated, with a final deadline of December 31, 2020 – This suspension will not apply to insolvency that occurred before the COVID-19 special measures were adopted or to insolvency that was caused by reasons other than the COVID-19 • Creditor insolvency petitions: – Suspension of the creditors' rights to file debtors for insolvency until August 31, 2020
Changes in Restructuring	Suspension of the fulfilment of restructuring plans for up to six months after the COVID-19 special measures are terminated, with a final deadline of December 31, 2020, if the restructuring plan was approved by the court before March 12, 2020. The suspension is granted by a court decision upon the debtor's request.
Hardening Periods	Hardening periods are prolonged by the time during which suspension of debtor's obligation to file for insolvency lasted (see above).
Rescheduling of Loan Payments	In addition to the changes in the insolvency laws, the Czech parliament approved the rescheduling of loan payments. As such, loan payments, inclusive of interests in the case of natural persons, will be postponed for three to six months (based on the borrower's choice) with a final deadline of July 31, 2020 (three-month term) or October 31, 2020 (six-month term). The rescheduling of loan payments is an opt-in protection, and the borrowers must request the rescheduling and enclose an affidavit that their inability to pay on time is caused by the COVID-19 pandemic. Such rescheduling is provided without any charge, however, lenders are entitled to interest for the term in which loan payments were rescheduled. For consumers, the interest rate is capped by law at repo rate of the Czech National Bank + 8%. Entrepreneurs will pay the interest in the amount agreed upon in the respective loan agreement.

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5. France

On March 23, 2020, the French government enacted a statute establishing a "state of health emergency" that authorizes it to take all measures to combat the effects of the COVID-19 pandemic, including making temporary amendments to the French Commercial Code and insolvency laws.

The state of health emergency came into effect on March 24, 2020, and is currently scheduled to expire on May 24, 2020.

In addition to the financial and social support measures for companies that have been previously announced, an order dated March 27, 2020 (Order), put in place several temporary changes to the French insolvency laws. The Order is applicable to all insolvency proceedings pending throughout France, including in the regions of Moselle, Bas-Rhin, Haut-Rhin, Wallis and Futuna, which are usually subject to specific local rules. These measures are summarized below.

Fixing the Date of "Cessation of Payments" to March 12, 2020	Pursuant to French insolvency laws, debtors are generally required to file for bankruptcy within 45 days of cessation of payments, i.e., the inability to pay debts as they become due. In recognition of the impending economic downturn due to COVID-19, Article 1 of the Order fixed the date of cessation of payments to March 12, 2020, for the period of the state of health emergency plus three months (or until August 24, 2020, under the current schedule). In other words, if a company was not deemed to be in cessation of payments on March 12, 2020, it will be protected from filing for bankruptcy at least until August 24, 2020. The measure also protects legal representatives of the distressed companies from legal proceedings and personal sanctions for not declaring insolvency (*dépôt de bilan*) in due course during this period. However, if a company's distress worsens during the state of health emergency or if the financial operations of the business require it, the company may voluntarily seek bankruptcy protection and initiate restructuring or liquidation proceedings. A company may also request the suspension of legal proceedings or to obtain public funds for the payment of certain employees through the wage-guarantee insurance (AGS). The Order does not prevent the Commercial Court (*Tribunal de Commerce*) from fixing this date to an earlier date pursuant to article L.631-8 of the Commercial Code.
Other Measures	• Extension of the "conciliation"[5] period (article L.611-6 of the Commercial Code) for the duration corresponding with the state of health emergency plus three months. • Extension of the "safeguard"[6] plans (article L.626-12 of the Commercial Code) and recovery plans (article L.631-19 of the Commercial Code) may be ordered by the President of the Commercial Court, either (i) at the request of the court-appointed official responsible for the safeguard plan's implementation (*commissaire à l'exécution du plan* or the Commissioner) for a duration corresponding to the period of state of health emergency plus three months, or (ii) at the request of the prosecutor, for a maximum duration of one year. An additional plan extension for a maximum duration of one year can also be ordered by the court after the expiration of these first periods at the request of the Commissioner or for six months at the request of the prosecutor. • Suspension of the two-month deadline for the court to rule on the continuation of the "observation periods,"[7] as set out by article L631-15 I of the Commercial Code.

5 "Conciliation" proceeding is a pre-insolvency proceeding in which the company and its main creditors aim to agree to a restructuring agreement. Ordinarily, the conciliation period is limited to four months and can be extended by one month.

6 "Safeguard" proceedings are initiated by the debtor to restructure its debt. Generally, the plan must be made available and be put to vote by the creditors within six months of the opening of the safeguard proceedings.

7 It is the period during which the debtor is continuing operations and developing an exit plan in safeguard and restructuring proceedings.

- Prioritization of electronic communications and encouragement of remote work and confinement measures. Article 2 of the Order provides that any claims and submissions to the courts shall be made in writing and communicated "by any means" and that decisions may be rendered without a hearing. The same shall apply to communications between insolvency practitioners with the court.
- Simplification of the claims assessment process by the AGS.
- Extension of certain deadlines:
- The periods of guarantee of the AGS for certain employee claims
- The deadlines imposed on judicial administrators, judicial agents or liquidators, until the expiry of the state of health emergency plus three months with, however, an analysis on a case-by-case basis, and the durations of observation periods, plans, continuations of activity and simplified judicial liquidation proceedings, for the same period

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6. Germany

Germany has made a number of changes to its insolvency and related laws as a result of COVID-19, including suspending the obligation to file for bankruptcy.

Suspension of the Obligation to File for Bankruptcy	Under German insolvency laws, an entity has an obligation to file for bankruptcy within three weeks after the entity become either insolvent or over-indebted.[8] Insolvency is defined as the entity's inability to pay its debts as they come due (i.e., cash-flow insolvency) and over-indebtedness is defined as the state in which a company's total liabilities outweigh its total assets (i.e., balance-sheet insolvency). The Federal Ministry of Justice and Consumer Protection (BMJV) suspended this obligation to file for bankruptcy, retrospectively from March 1, 2020 until September 30, 2020 (suspension period). The BMJV may extend this suspension period by statutory order until March 31, 2021. Previously, the violation of the obligation to file for insolvency could result in criminal penalties and civil liabilities for the managing directors of limited liability companies (GmbH, GmbH & Co. KG, AG, UG) and in civil liabilities for executive boards of associations. There are, however, two exceptions to the suspension. The obligation to file for insolvency remains in force if (i) the reasons for insolvency (i.e., the inability to pay or over-indebtedness) are not the result of the COVID-19 pandemic, and (ii) there are no prospects of eliminating the inability to pay. The burden of proof on whether these two exceptions apply lies with the party claiming that there has been a breach of the obligation to file for insolvency, typically an insolvency administrator or a creditor. Moreover, the standard of proof has also been heightened to favor the debtor. According to the explanatory memorandum to the law, a rebuttal can only be considered in cases where there is "no doubt" that there has been a breach of the obligation. If the debtor was not insolvent on December 31, 2019, there is a presumption that the grounds for insolvency have arisen from the effects of the COVID-19 pandemic and that there are prospects of eliminating any existing insolvency.
Additional Regulations	In order to give affected companies the opportunity to continue their business and eliminate insolvency risks, the suspension of the obligation to file for insolvency is aided by additional regulations. • Corporate law prohibits certain payments when grounds for insolvency exist[9] – These prohibitions have been relaxed. Transactions made in the ordinary court of business, especially those that serve to maintain business operations or to implement a restructuring, are presumed to be made with the diligence of a prudent and conscientious manager, and will not trigger any liability for the manager. The same exceptions to the suspension of the obligation also apply here. • Newly granted loans from banks and other lenders will be protected in order to motivate them to provide additional liquidity to companies in distress – Repayments on loan granted during the suspension period, as well as the secured collateral for such loans, cannot be challenged until September 30, 2023. This will also apply to new loans; mere extensions of preexisting loans will be protected. • Newly granted loans by shareholders will also have additional protections – Repayments of such loans until September 30, 2023, will not be considered disadvantageous to creditors, and cannot be challenged. Such loans will also no longer be subject to subordination in insolvency proceedings pursuant to Section 39(1) no. 5 InsO.

[8] Section 15a of the German Insolvency Code (InsO) and Section 42(2) of the German Civil Code (BGB).
[9] Section 64 sentence 1 GmbHG, Section 92(2) sentence 1 AktG, Section 130a(1) sentence 1 HGB, also in conjunction with Section 177a sentence 1 HGB and Section 99 sentence 1 GenG.

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- Provisions have also been made to alleviate the concerns of distressed companies' contractual counterparties (such as suppliers, landlords and lessors) – Contractual counterparties' receipt of payment (whether through the settlement or claims or through the seizure of collateral) while the debtor was insolvent or over-indebted will be protected and cannot be avoided in the event the debtor's restructuring efforts fail and the debtor commences bankruptcy proceedings. The protection will apply to any performance in lieu of or on account of performance, payments made by a third party on account the debtor's instructions, the seizure of collateral other than that which was originally agreed to, the shortening of payment terms and the granting of payment facilities. This restriction on avoidance actions also applies to companies that are not obligated to file an application (such as sole traders and limited partnerships with a natural person as the general partner) and debtors who are neither insolvent nor over-indebted.
- A new law entered into on April 1, 2020, temporarily suspends landlords' rights to terminate leases due to outstanding rent payments until the end of June 2020, if "the failure to pay is due to the effects of the COVID-19 pandemic." If the pandemic continues to worsen, the federal government is authorized to extend the time of suspension of the right of termination until September 30, 2020.
- Finally, for a three-month transitional period, the right of creditors to apply for the commencement of bankruptcy proceedings is also suspended. During the three months after the law is enacted, creditors may only apply for bankruptcy if the reason for insolvency (e.g., inability to pay or over-indebtedness) already existed on March 1, 2020.

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7. Italy

In order to mitigate the negative effects of the COVID-19 emergency on Italian enterprises, the Italian government has adopted a series of measures, providing for derogations from usual procedures.

In particular, law decree 23 of April 8, 2020 (*Decreto Liquidità*) has provided for a series of measures concerning – *inter alia* – the insolvency of companies.

Measures Concerning Requests for Bankruptcy Proceedings and Declarations of Insolvency	All applications concerning bankruptcy and insolvency proceedings filed in the period between March 9, 2020 and June 30, 2020 will be dismissed. Moreover, in the above-mentioned time frame, the statutory limitation periods for creditors to file claw-back claims against companies are suspended.
Measures Concerning Arrangements With Creditors and Restructuring Agreements	Deadlines of arrangements with creditors and restructuring agreements, due in the period between February 23, 2020 and June 30, 2020, are extended by six months. Moreover, in the above proceedings, the debtor can file a request with the court for an extended term of no more than 90 days for the submission of a new plan or restructuring agreement, in which it can take account of economic factors arising from the COVID-19 emergency.
New Insolvency Code	Prior to the emergency situation caused by COVID-19, the Italian government had adopted a new Insolvency Code, through Legislative Decree 14 of January 12, 2019, which was supposed to enter into force in August 2020. However, in order to avoid legal uncertainty, the government has decided to postpone the entry into force of the new Insolvency Code until September 2, 2021.
Interim Measures Concerning Capital Reductions	During the period up to December 31, 2020, companies that suffer a reduction of more than one third to, or lose, their corporate capital need not necessarily proceed with dissolution or a mandatory recapitalization.
Interim Measures Concerning Accounting Standards	When preparing the 2020 financial statements of companies affected by the COVID-19 crisis, directors may assess the accounting principles of continuity of the business as a going concern and prudence in light of the situation as at the date of the latest approved financial statements, rather than as at the then current year-end.
Interim Measures for Company Financing	Repayment of shareholder loans provided to companies during the period until December 31, 2020 are no longer subordinated to the satisfaction of other creditors of the company.

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8. Japan

Unlike many other countries, Japan does not have a specific law governing insolvency, but rather there are various aspects of civil and commercial law that form the basis for insolvency in Japan. Accordingly, there have not been wholesale revisions to existing laws aimed specifically at providing relief from the impacts of COVID-19. Instead, the Japanese government, and to some extent private industry, has taken other steps aimed at mitigating the economic and financial hardship brought about by the COVID-19 pandemic.

Relief for Payment of Taxes and Utilities	On April 30, 2020, in response to the COVID-19 pandemic, a new bill to amend Japan's Act on General Rules for National Taxes passed and went into effect. The amended act grants a one-year grace period for payment of national taxes if the taxpayer is experiencing financial hardship due to COVID-19 and its income has been reduced by approximately 20% or more compared with the same period of the previous year. Additionally, no overdue interest will be assessed against the taxpayer, and no security will be required. It is available for individuals or any entities and for any national taxes. In addition, on March 19, 2020, the Ministry of Internal Affairs and Communications of Japan requested the local governments managing water, sewer and gas supply businesses to give a moratorium on bill payments for people suffering financially due to the COVID-19 outbreak, informing that, under the current situation, such moratorium will be allowed without local ordinances under the current Local Autonomy Act.
Subsidy Program for Sustaining Businesses	In response to the COVID-19 pandemic, the Ministry of Economy, Trade and Industry of Japan has offered a subsidy program targeting businesses facing severe conditions and provided subsidies for any purpose to sustain their businesses. Mid/small sized businesses and individual business operators facing a decrease in sales by 50% or more compared with the previous year due to the COVID-19 pandemic are eligible for the subsidy program. The maximum amount of subsidies is JPY 2 million or a mid/small sized business and JPY 1 million for an individual business operator, capped at the year-on-year loss of sales.
Rent Reduction	Some prefectural and city level governments in Japan implemented their own measures to minimize the impact on a lessor of rent deferral and rent reduction. For instance, Kobe City will provide a lessor with a subsidy, which amounts to 80% of the amount of the rent reduction, if the lessor has reduced the rent to less than half of the original rent amount. Potential direct rent relief measures are still under discussion within the Japanese government.
Subsidy to Support Companies That Have Suspended Employees Due to COVID-19	The Ministry of Health, Labour and Welfare of Japan ("MHLW") has expanded the Employment Adjustment Subsidy (*Koyo Chosei Jyoseikin*) program for companies to encourage and support the continued employment of their employees during the company's temporary suspension of business due to the economic downturn caused by COVID-19. Under Japanese law, a company that suspends their employees from work due to suspension of its business, for a "reason attributable to the employer", is required to compensate the employee for the time absent from work. The Employment Adjustment Subsidy provides subsidies to companies for this compensation and the expansion announced by MHLW expands the eligibility criteria to cover companies affected by COVID-19 and also increases the amount of subsidies for those companies. On May 3, 2020, the Japanese government announced that it was considering further increase of the amount of subsidies.
Changes in Delisting Criteria for Publicly Traded Companies	Under pre-revision Article 601.1.(5) of the Tokyo Stock Exchange Securities Listing Regulations, a listed company on the Tokyo Stock Exchange (TSE) was delisted when the company was insolvent as of the end of a fiscal year and its insolvency continued for an additional one-year period. In response to the COVID-19 pandemic, since April 21, 2020, the TSE has extended the delisting grace period from one year to two years for listed companies that have fallen into insolvency due to COVID-19. The TSE has clarified that it will not consider delisting a company to which an outside auditor expresses an "adverse opinion" or "no opinion" in the company's quarterly financial statements as long as the company has been impacted by COVID-19.

Changes in Reassignment Criteria	Relatedly, the TSE has relaxed its reassignment criteria for companies adversely affected by COVID-19. Under the previous rule (Article 311.1.(5)), a company listed on Section 1 of the TSE could be reassigned to Section 2 if the company was insolvent as of the end of a fiscal year. Section 1 companies have been given a one-year grace period before reassignment.
Are There New Moratoria on Debt Collection?	At the private level, a number of companies have indicated that they will implement policies designed to offer financial support to customers affected by the COVID-19 pandemic: • Insurance industry – Aflac and Meiji Yasuda Life granted extension of payment of premiums for periods of up to six months • Communication industry – Softbank and KDDI have granted extension of payment of service fees until the end of May 2020 – KDDI has further granted extension until the end of June 2020 and is considering further extensions • Financial industry – Sumitomo Mitsui Banking Corporation and Sumitomo Mitsui Trust Bank have offered to negotiate repayment conditions; Hokuriku Bank has waived fees in connection with amendment of repayment conditions

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9. Poland

Poland has decided to temporarily suspend bankruptcy filing obligations as a result of COVID-19. The Polish government is also planning the implementation of certain measures affecting the process of restructuring businesses.

A draft of the relevant act was submitted to Parliament on March 26, 2020, but has not yet been approved.

Suspension of the Obligation to File for Bankruptcy	According to Polish law, the debtor needs to file for insolvency within 30 days following the occurrence of the premises for insolvency, i.e., (i) it lost the ability to pay its debts when they mature, discharging its debts (there is a presumption that the debtor is insolvent if the delay in payment exceeds three months) or (ii) certain cash liabilities exceed debtor's assets and such state of affairs persist for more than 24 months. On April 17, 2020, a new law, Act of April 16, 2020 on Specific Support Instruments in Connection With the Spread of the SARS-CoV-2 Virus, was passed. Among other matters, the new law provides a provisional solution for delaying the term for insolvency filing. The new law provides that during the term of the pandemic emergency or pandemic (as declared in compliance with applicable legislation) announced due to the COVID-19 pandemic, the term for insolvency filing will be suspended and the term already running will be halted (meaning it will need to run again from the beginning). Further, the new legislation provides that, if the bankruptcy occurred during the period of the pandemic emergency or pandemic, it is deemed to be caused by COVID-19. The above change will also extend the periods provided for by the Bankruptcy Law, the calculation of which is dependent upon the day of the bankruptcy filing. This solution, once implemented, will release the representatives of the debtor (e.g., the members of the management board of the companies) from liability for a delayed insolvency filing. This does not release the members of the board from considering and filing the motion for a restructuring proceeding as provided for under the Restructuring Law.
New Proposed Legislation on State Aid in Restructuring	The proposed act provides for three types of states aid for distressed companies, or "enterprises in difficulties," as defined by the "Communication from the Commission – Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty" (Guidelines), which has been implemented into the Polish Restructuring Law. Aid may be granted to reduce social difficulties or to overcome market imperfections. The proposed act expressly lists the COVID-19 pandemic as causing the risk of a business failing as one of the "social difficulties or market imperfections."
Rescue Aid	Rescue aid may be granted for the time necessary to allow continuance of the business for the period needed to work out a restructuring plan or liquidation. It may be granted in the form of a collateralized, interest-bearing loan that may be extended in an amount not higher than what is necessary to maintain basic operational activity, and cannot last longer than six months.
Temporary Restructuring Aid	Temporary restructuring aid will be made available only to micro, small and medium businesses, as defined of the Guidelines, and would be provided to enable the company to conduct business for the time necessary to implement restructuring measures aimed at restoring its long-term ability to compete in the market. This aid would be provided in the form of a loan. Terms and conditions of this loan will be applicable mutatis mutandis.

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Restructuring Aid	• Restructuring aid will be made available to all distressed companies, in order to implement a restructuring plan that would allow the restoration of the business so that it can compete in the market on a long-term basis. This aid may take various forms, such as loans, injection of share equity by the state, purchase of bonds, change of loan repayment terms to the entity provided restructuring aid, a debt-to-equity swap, as well as cancellation or postponement of payment of administrative penalties or interest thereon. This aid is subject to implementation of the restructuring plan as defined in the Polish Restructuring Law. • All three types of aid would be granted by the Minister of Economy, who may assign all implementation authority to the Industrial Development Agency (*Agencja Rozwoju Przemysłu S.A.*). The aid will be granted upon the application by the businesses, which will be evaluated for compliance with aid criteria. • The proposed act states that the amount of government expenditure under the Act may not exceed PLN120 million (approximately US$29 million) each year and PLN1.2 billion (approximately US$290 million) over the period from 2020 to 2029.

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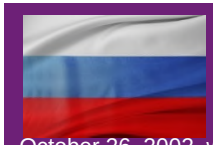
10. Russia



In connection with the COVID-19 pandemic and to ensure the economic stability in case of an emergency situation, the Russian state authorities adopted the Federal Laws No. 98-FZ dated April 1, 2020, and No. 149 dated April 24, 2020 (Laws), introducing amendments in licensing, healthcare, procurement and bankruptcy legislation.

With respect to the bankruptcy legislation, the Laws supplemented the Federal Law On Insolvency (Bankruptcy) No. 127-FZ (Bankruptcy Law) dated October 26, 2002, with a new provision (Article 9.1) authorizing the Russian government to introduce a moratorium on the initiation of bankruptcy cases (by the creditors) in case of emergencies or a natural disaster.

In accordance with those amendments and in connection with the COVID-19, the government of the Russian Federation introduced the moratorium on the initiation of bankruptcy cases by creditors with respect to certain debtors (the Resolution of the Government of the Russian Federation No. 428 dated April 3, 2020). According to this Resolution, the moratorium is introduced with respect to two groups of debtors:

- Companies acting in the areas of business that are recognized as mainly affected by the COVID-19. The list of these areas is stipulated in the Resolution of the Government of the Russian Federation No. 434 dated April 3, 2020. This list includes, for example, transport, entertainments, sports, cultural events, tourism, hotels, education, health, restaurants, etc.
- Companies that can be described as those having strategic meaning and included in one of the three governmental lists of such companies.

This moratorium is introduced for the period of six months and is effective since April 6, 2020 through to October 6, 2020.

The Supreme Court of the Russian Federation issued its clarifications on the application of the new amendments in the Bankruptcy Law in the Legislation Reviews as separate issues of judicial practice related to the application of legislation and measures to counteract the spread of the new coronavirus disease 2019 (COVID-19) No. 1 dated April 21, 2020, and No. 2 dated April 30, 2020 (Legislation Reviews).

Moratorium on Bankruptcy Proceedings	• A moratorium on bankruptcy proceedings is introduced for a period determined by the government. The moratorium may be extended if circumstances that served as the basis for its introduction remain in force. The specific provisions of the moratorium are summarized below. • During the moratorium, any applications on the initiation of bankruptcy proceedings filed by the creditors with the court, as well as submitted before the date of the moratorium but not considered or resolved by the date of the moratorium, will be returned back to the applicant by the court. As the Supreme Court explains, once the moratorium procedure is lifted, the creditors have to publish a new notification on their intention to initiate the bankruptcy procedure. The creditors have the right to apply for bankruptcy procedure within 15 days after such a publication. • During the moratorium, creditors are not permitted to levy execution on the pledged property, such as seize property collateral, including through out-of-court procedure. • Enforcement proceedings relating to the execution against a debtor's property are suspended with respect to the claims that arose before the moratorium. As explained by the Supreme Court, the creditors are also deprived of the right to get the execution of the writs through the banks and other credit organizations. • During the moratorium, however, seizure of and other restrictions on debtors' property that have already been imposed through enforcement proceedings are not lifted. The Supreme Court also admits a possibility to get the writ of execution with the court and to establish the restrictions on disposition of debtor's property within the execution procedure.

	• The composition and size of monetary obligations, claims for severance payments and/or salaries under an employment contract, and mandatory payments arising prior to the date of the moratorium and claimed after the court has accepted the application for declaring the debtor bankrupt, are determined on the date of introduction of the moratorium. The amount of the respective monetary obligations denominated in foreign currency that arose prior to the date of the moratorium is determined in rubles at the lowest rate established on the date of the moratorium or on the date of bankruptcy proceedings. • During the moratorium, accrual of the penalties (fines and penalties) and other financial sanctions for non-fulfillment or improper fulfillment by a debtor of monetary obligations and obligatory payments for claims arising before the introduction of a moratorium ceases. • During the moratorium, meetings of creditors, committees of creditors, former employees of any debtor will be held by the decision of the administrator in absentia. • If, during the moratorium period, the creditor gives its written consent to the amicable agreement, then when counting the votes at the meeting of creditors when deciding on the conclusion of an amicable agreement, the creditor is considered to have voted for such an amicable agreement. • Any person who is subject to a moratorium has the right to refuse of implication of a moratorium procedure by filing the relevant notification in the Unified Federal Register of Bankruptcy Information. After the publication of such a notification, the moratorium does not apply to such a person. • The Supreme Court clarified that the moratorium is aimed at protecting debtors who suffered as a result of respective circumstances, providing them with the opportunity to get out of a difficult situation and return to normal economic activity. In a situation when debtor's owners take a decision on its liquidation, and, thus, it is not expected to continue its normal business activity, creditors are not deprived of the right to file an application for declaring the debtor bankrupt.
Additional Regulations	• The new Law also cancels any governmental inspections for the period from April 1 to December 31, 2020, inclusively for small- and medium-sized businesses. In addition, in 2020, the Russian government will have the right to establish rules for organizing and conducting the federal state control (or supervision) proposed by the Law. • By the governmental acts (the Information letter of the Russian General Prosecutor General dated March 26, 2020, and the Order of the Russian Federal Tax Service dated March 20, 2020, No. ED-7-2 1812) from March 18, 2020 until May 1, 2020, the federal authorities will not start tax audits or customs and prosecutor's inspections. • According to the Order of the Government of the Russian Federation dated March 18, 2020, from March 20, 2020 to May 1, 2020, business entities working in tourism, air transportation, physical education, sports, art, culture and cinema will be granted "tax holidays," a deferral of payment of taxes and other contributions. • The Central Bank of the Russian Federation has also recommended to the credit organizations to consider the restructuring of loans of small- and medium-sized businesses, including the provision of deferrals for the repayment of principal and interest, as a priority measure to prevent overdue debt or to resolve. • Finally, from March 19, 2020 to April 10, 2020, access to all courts was limited. Only cases of an urgent nature, as well as cases of simplified and procedural proceedings, were considered by the courts.

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11. Slovak Republic

Slovakia has made a number of changes to its insolvency law in response to COVID-19, including suspending the obligation to file for bankruptcy or a temporary protection from insolvency.

Suspension of Obligation to File for Bankruptcy	The company is bankrupt (*v úpadku*) if it is either insolvent (*platobne neschopná*) or over-indebted (*predlžená*). A debtor or liquidator must file for a bankruptcy if a company is over-indebted, under a "balance sheet test", i.e., when it has at least one creditor and the value of a company's assets is less than its liabilities – taking into account not only due, but also its "contingent and prospective" liabilities. Once the company is bankrupt, its directors are obliged to file for company's bankruptcy within 30 days, but this is extended to 60 days if over-indebtedness occurred between March 12 and April 30, 2020, after the date on which they learned about company's over-indebtedness or they ought to have known about it, if exercising professional care.
Temporary Protection	To address negative economic impact of the virus on businesses, the Slovak Ministry of Justice has adopted a new tool of a temporary protection for companies from insolvency that will become effective as of May 12, 2020. Temporary protection from insolvency can be granted by an insolvency court determined by law at the request of an entrepreneur that was not insolvent as of March 12, 2020. Its duration is limited until October 1, 2020 and may be extended by the government until December 31, 2020. The effects of temporary protection for businesses are: • Protection against creditors' insolvency petitions • Suspension of pending bankruptcy proceedings initiated by a creditor • Suspension of enforcement proceedings commenced after March 12, 2020 • Suspension of the debtor's obligation to file for bankruptcy • Suspension of certain distrains relating to the enterprise • Temporary ban on the pledge enforcement • Set-off debtor's receivables arising after the temporary protection has been granted against a receivable of an affiliated person arising prior to the temporary protection is prohibited • Termination of a contract due to debtor's delay with its performance occurring after March 12, 2020 as a result of COVID-19 measures is ineffective, unless the other party would endanger its own operation by not terminating the contract • Periods for raising a claim against a protected company, including periods for raising claims against a debtor under claw-back provisions, are suspended

The company under temporary protection is obliged to:

- Make the maximum efforts in order to satisfy its creditors to the extent it can be reasonably requested from the company
- Prioritize common interest of the creditors; is prohibited to distribute profit or any other equity
- Refrain from any disposal with assets, including assets that could potentially belong to the estate, if such disposal could result in substantial changes in the composition, use or designation of the assets, other than an immaterial decrease; this obligation also applies to the directors

Obligations related to preservation of operation of the business arising after the temporary protection is granted can have priority over earlier due payments.

Loans and similar instruments provided by an affiliated entity during temporary protection and aimed at preservation of operation of the business are not subject to "company in crisis". Security provided for such loans is disregarded in the bankruptcy proceedings.

Temporary protection terminates: (i) as of October 1, 2020; (ii) upon request of the company; and (iii) upon decision of the court on cancellation of the protection.

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12. Spain

The Spanish government has implemented a series of measures after declaring a "state of alert" nationwide in response to COVID-19.

Most significantly, the obligation to file for bankruptcy has been suspended.

Suspension of the Obligation to File for Bankruptcy	Generally, a debtor must file for bankruptcy within two months of becoming insolvent. Under the new regulation, this obligation is suspended until December 31,2020. The suspension also applies to debtors who had become insolvent prior to the state of alert, but had not yet filed for insolvency during the statutory two-month period before the state of alert was implemented. Companies that have informed courts of their restructuring or refinancing negotiations will also not be required to declare bankruptcy as long as the state of alert is in force. While companies may file voluntary bankruptcy applications, courts will not process involuntary bankruptcy applications submitted until December 31, 2020.
Other Rules Affecting Insolvency Proceedings	The General Council of the Judiciary, which regulates the activity of judges in Spain, has issued a series of rules that affect insolvency proceedings as follows: • Insolvency proceedings already declared – Only urgent and procedural actions necessary to avoid irreparable damage will be carried out. • Voluntary insolvency proceedings pending declaration – Judges may declare insolvency if waiting until the end of the state of alert can cause irreparable damage. • Involuntary insolvency proceedings pending declaration – Presumed not urgent. • Communications for the negotiation of restructuring or refinancing agreements – Not considered urgent. • Communications of the negotiation of restructuring or refinancing agreements submitted and processed – Interim orders are not considered urgent.
Other Measures	• Any approved insolvency agreement that is pending fulfilment might be amended if the debtor submits a request for amendment within one year after the end of the state of alert. Consequently, declarations of non-fulfilment submitted by creditors during the six months subsequent to the end of the state of alert will not be processed during the said term plus three months. • During one year after the declaration of the state of alert, a debtor who is aware that it will not fulfill an insolvency agreement will not have to request the liquidation of its assets. The same term applies to creditors' requests to liquidate the debtor's assets when the insolvency agreement is not fulfilled. • In the event of non-fulfilment of any insolvency agreement approved or amended during two years after the declaration of the state of alert, the credits arisen out of new credits or third-party guarantees would be considered as credits against the debtor's assets. Even credits or guarantees granted by persons specially

related to the debtor would have the same consideration. Those credits granted by persons specially related to the debtor during the two years following the declaration of the state of alert would be considered as ordinary and non-subordinated credits.

- Any court- approved refinancing agreement could be amended during one year following the declaration of the state of alert. During the six months following the declaration of the state of alert, the courts will not process any creditors' requests to declare the non-fulfilment of the refinancing agreements.

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13. United Arab Emirates

There have been no changes to the bankruptcy laws of the United Arab Emirates (UAE).

There have been some changes that impact the insolvency laws of the UAE's oldest common law financial free zone, the Dubai International Financial Centre (DIFC) which operates under its own internal laws. No corresponding changes have been made in the Abu Dhabi Global Market (ADGM), the country's second financial free zone, which has its own insolvency regime.

There have been some other developments in the UAE that indirectly affect insolvent debtors and creditors in the country.

Closure of Courts in the UAE	Commencing from March 22, 2020, the federal courts of the UAE were declared closed, with proceedings suspended until April 26, 2020. Three of the seven Emirates – Abu Dhabi, Dubai and Ras Al Khaimah – maintain their own court systems and separately announced closures for periods ranging from April 16, 2020 to April 26, 2020. Suspensions until 26 April 26, 2020, were also announced by the ADGM and DIFC authorities. All of these courts have since re-opened, with many adopting a "remote" system for operating, including e-filling arrangements and video conference hearings.
UAE Federal Law No. 9 of 2016, as amended (the UAE Bankruptcy Law)	The UAE Bankruptcy Law provides for a court-dominated process for insolvency or restructuring and rescue proceedings. During the period of the UAE court closures, practically, it was difficult or impossible for creditors or insolvent debtors (particularly insolvent companies and their directors or managers) to avail themselves of their rights or to fulfil their obligations under the UAE Bankruptcy Law. Article 68 of the UAE Bankruptcy Law requires insolvent debtors to initiate bankruptcy proceedings within 30 days of insolvency. Penalties for failure to comply consist of fines and prison terms. These provisions have not been amended or waived to date. All of the applicable courts in the UAE for bankruptcy proceedings have now re-opened, either physically or by virtual means, and insolvent debtors are able to discharge this legislative requirement as needed.
UAE Insolvency Law No. 19 of 2019 (the UAE Personal Insolvency Law)	The UAE Personal Insolvency Law, which came into force on November 29, 2019, provides court-sanctioned processes allowing insolvent natural persons (and the estate of the deceased) to: • Apply for settlement proceedings at the relevant court, which would involve assistance and guidance in the settlement of the debtor's financial commitments under the supervision of a court-appointed expert through a court supervised settlement plan, or • Apply for liquidation proceedings at the relevant court for liquidation of the debtor's assets where the debtor has failed to pay his/her debts for a period exceeding 50 business consecutive days. Such application may also be made by a creditor or a group of creditors where the total amount of their debts is not less than AED200,000, provided that the debtor has been notified and failed to pay his/her debts within 50 business days of notification. The UAE Personal Insolvency Law does not apply to merchants, traders, commercial companies and similar persons that fall under the scope of the UAE Bankruptcy Law. During the period of the UAE court closures, practically, it was difficult or impossible for insolvent debtors to apply to the courts for settlement proceedings and for creditors or insolvent debtors to apply for liquidation proceedings. All relevant UAE courts have now re-opened, either physically or by virtual means, and creditors and debtors are now able to apply to the courts for proceedings under the UAE Personal Insolvency Law.

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Changes in the Dubai International Financial Centre (DIFC)	The DIFC is a common law financial free zone empowered to enact its own laws and regulations governing its internal affairs and the affairs of companies and other entities carrying on business within the area of its jurisdiction. On April 21, 2020, Presidential Directive No. 4 of 2020 was issued, suspending the wrongful trading obligations of DIFC-established companies under the DIFC Insolvency Law from the date of its issuance to and including July 31, 2020. According to the DIFC, this suspension was designed to ease the pressure on the directors of DIFC companies at risk of being held personally liable for continuing to trade in the current circumstances. Article 15 (2) of the directive states that the suspension was intended to "ensure that directors of DIFC companies in the current uncertain environment are able to take decisions to continue to trade, incur new credit and make decisions which may otherwise cause directors concern about the potential for personal liability under the wrongful trading regime set out in Articles 113 and 115 of the Insolvency Law".
Prohibitions Against Exercising Certain Rights	The various support schemes put in place in the UAE in response to the COVID-19 pandemic have had the effect of suspending certain rights of creditors. The support schemes, amongst other things, seek to incentivize banks to moderate potential enforcement actions that they may be considering, in particular, against individual and SME borrowers. For example, the Targeted Economic Support Scheme announced by the Central Bank of the UAE on March 14, 2020, contemplates temporary relief from the payments of principal and interest/profit in respect of outstanding loans for all private sector companies affected by COVID-19. Similar support measures have been put in place in various Emirates. Various decrees issued in the UAE have also had the effect of suspending certain rights of creditors. On March 25, 2020, the UAE federal government and the governments of the Emirates of Abu Dhabi and Dubai issued general prohibitions against enforcement action in civil cases (presumably under orders issued prior to March 22, 2020). These measures remain in place.

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14. United Kingdom

The measures announced in the UK include a temporary relaxation of the laws around wrongful trading for a period of three months and a temporary ban on winding up petitions, but also permanent changes to the UK's insolvency regime, including a new moratorium, protection of supplies and a new restructuring plan.

Relaxation of Wrongful Trading Provisions	Under current UK law, if a director continues to trade a business while it is technically insolvent, they may be liable for wrongful trading if the business ultimately enters administration or insolvent liquidation, and by continuing to trade the net deficiency to creditors' increases. The offer of financial help from the government had placed directors in a very difficult position, because by taking out additional loans in an effort to save the business, they could potentially expose themselves to personal liability if it ultimately fails. However, under the new rules the wrongful trading provisions will be temporarily suspended. This change should encourage businesses to take advantage of the financial packages offered by the UK government, but directors must still ensure that they comply with their duties as directors when making decisions about the viability of the business and seek professional advice. While new legislation is required to make the temporary change to the provisions on wrongful trading, once enacted, the changes will apply retrospectively from March 1, 2020,until 30 June 2020 (or a month after the new legislation comes into force, whichever is later).
Temporary Prohibition on Winding up Petitions and Orders	The UK government will temporarily ban the use of statutory demands (made between March 1, 2020 and June 30, 2020) and will prohibit winding up petitions from being presented or winding up orders being made (from April 27, 2020 to June 30, 2020 – although this may be extended) where a company cannot pay for COVID-19 reasons. While the announcement was primarily aimed at landlords to prevent aggressive rent collection, the measures in the draft legislation impose a blanket ban on all winding up petitions and orders where non-payment of a debt is because of COVID-19 reasons. The new legislation to implement this measure is not yet in force, but will be retrospective.
New Insolvency Tools and Moratorium	In addition to temporary changes, the UK is expected to implement permanent measures based on proposed changes to UK insolvency laws announced in 2018. These measures will include: • New Moratorium for Companies Currently, a company or director can only obtain the benefit of a moratorium when filing a notice of intention to appoint administrators, and that moratorium lasts for 10 business days. This new moratorium will hopefully be a quick and easy way for companies to obtain the benefit of a moratorium for an initial 20 business days, with the option to extend that by a further 20 business days, and can last for up to 12 months with court and/or creditor consent. Similar to a Chapter 11 restructuring in the US, the company remains in the directors' control during the period of the moratorium, but instead of decisions being monitored by the court an insolvency practitioner will monitor the position. • Protection of Supplies to Enable a Company to Continue Trading During the Moratorium This would prevent a supplier from terminating a contract on insolvency and jeopardizing the rescue of a business.

	• New Restructuring Plan If this new process takes the form previously suggested, then this would enable companies to bind all creditors (including secured creditors) whether or not they vote in favor of the plan, through the use of "cross-class cram down" – a process used in the US in Chapter 11 proceedings – the effect of which enables companies to bind dissenting creditors. The new law may also include safeguards for creditors and suppliers to ensure they are paid during the moratorium months.
Other Measures	Other key measures to support UK businesses include: • Financial packages – The UK government has announced a number of financial support packages, including government-backed loans of up to £50 million and grants of up to £25,000. • Support for employers and employees – There are a number of measures in place to support employment, including refunding up to two weeks of statutory sick pay and a government-backed job retention scheme. The scheme took effect from March 1, 2020, and is available until June 1, 2020. Under the scheme, the UK government will refund 80% of employees' wages, up to a maximum of £2,500, where employees are furloughed. • Tax – To alleviate cash flow pressures, some industries (largely retail, hospitality and leisure) will benefit from business rates relief. VAT payments for the next quarter (March 20, 2020 – June 30, 2020) are deferred until March 31, 2021, and businesses can contact HM Revenue and Customs (HMRC) to agree a time to pay agreement in respect of existing tax liabilities. • Protection from eviction – Commercial tenants who cannot pay their rent because of COVID-19 will be protected from eviction and will not automatically forfeit their lease if they miss a payment for an initial period of three months until June 30, 2020.

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15. United States

The US has not implemented direct changes to its insolvency laws. However, on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law, which presents some businesses with additional financing options to mitigate risks. The CARES Act includes a roughly US$2 trillion stimulus package – the biggest economic stimulus in recent US history. This economic relief provides expanded protections for American families, workers and businesses affected by the public health and economic crisis.

Key Measures Included in the Package

Bailouts for Distressed Companies	A US$500 billion fund controlled by the Federal Reserve was made available for a government lending program directed at distressed companies. Of this total amount, US$46 billion was set aside for industry-specific loans, including US$25 billion for passenger airlines, US$4 billion for cargo air carriers and US$17 billion for businesses critical to national security.
Small Business Protection	A total of an approximately US$670 billion fund was made available to support small businesses, through the Small Business Administration (SBA) loan program: the Paycheck Protection Program (PPP). Significantly, in the bankruptcy arena, under the CARES Act, the threshold allowing businesses to take advantage of the streamlined bankruptcy protections available to small businesses will be raised from approximately US$2,725,625 to US$7,500,000. Although neither the CARES Act nor the Small Business Act preclude Chapter 11 debtors from receiving the PPP, SBA has promulgated loan applications and policies requiring PPP applicants to not be currently involved in bankruptcies. Courts are divided on whether SBA had the authority to create this bankruptcy-related requirement for PPP applicants.
Direct Payments to Taxpayers	Taxpayers with incomes up to US$75,000 per year received US$1,200 in direct payment, before phasing out for those earning more than US$99,000 per year. Qualifying families will receive an additional US$500 per child. These payments are excluded from the definition of "income" in the Bankruptcy Code for Chapters 7 and 13.
Expansion of Unemployment Benefits	Jobless insurance was extended by 13 weeks and include a four-month enhancement of benefits. Individuals who are typically excluded from unemployment benefits (such as independent contractors) may be eligible for benefits
Grants for Healthcare Providers	A new grant program of US$100 billion will be created in support of healthcare providers. The stimulus package presents businesses with new avenues for obtaining capital and seeking remedies in the current unprecedented climate. However, it is important to plan in order to secure the full benefits of the new stimulus. Thoughtful restructuring strategies are essential to implement deployment of the funds in the most impactful way. At a minimum, in order to fully take advantage of the benefits of the stimulus and to minimize loss and volatility, companies need to enter this crisis with a plan on how they can integrate the stimulus relief into a long-term strategy that will help them navigate this crisis and emerge in the best possible financial condition.

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