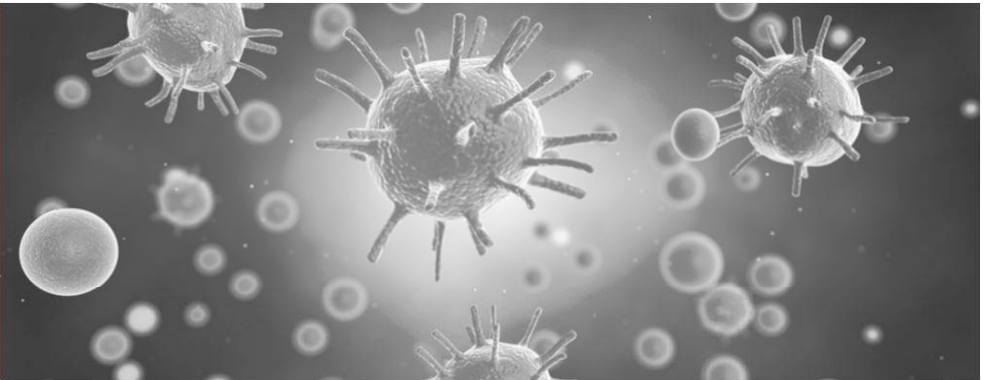


CORONAVIRUS ALERT

24/7



Business support 24/7 during coronavirus pandemic

New protection against bankruptcy and enforcement – restructuring without court approval

Anti-Crisis Shield 4.0 – new restructuring proceedings

- On 22 May 2020, a draft of Anti-Crisis Shield 4.0 was passed to the Sejm (lower house of parliament). The draft introduces, inter alia, a new variant for arrangement approval proceedings – simplified restructuring proceedings. It contains solutions unknown in Polish law to date. Businesses will be able to use them to protect themselves against creditors **for the next year, until 30 June 2021, but only once.**

Protection against bankruptcy and enforcement without court approval

- **The new restructuring proceedings will be initiated without court approval, based on a statement from the debtor published in *Monitor Sądowy i Gospodarczy* (official journal for announcements).** Beforehand, companies in difficulty will merely have to conclude an agreement with a licensed restructuring adviser, who will supervise the arrangement.
- From the date the debtor's statement is published, the effects of the opening of the court restructuring will arise. First of all, **the debtor's statement will suspend enforcement for as long as four months. During this time, it will also be impossible to file for an entrepreneur's bankruptcy.** Currently, protection of this type requires prior court approval. After Anti-Crisis Shield 4.0 comes into force, the court will be able to react only afterwards and overrule the effects of an announcement of the opening of proceedings if they are detrimental to creditors.
- Restructuring will also compulsorily cover secured debts, e.g. bank loans. So a debtor will have to offer a secured creditor either full repayment of the debt or repayment on terms not worse than those in enforcement or bankruptcy.

Proceedings under supervision of restructuring adviser

- **The debtor will run its business independently.** It will merely have to obtain the arrangement supervisor's approval for activities exceeding ordinary management. The supervisor will be able to approve, inter alia, new financing to repair the business and to repay creditors, and security for the financing. It will not be possible for these transactions to be challenged during the debtor's bankruptcy or restoration.

New restructuring will protect against liability

- **A company's management board will not bear financial liability towards creditors or the tax authorities** if it files a statement on the opening of proceedings within 30 days of the company becoming insolvent and

the proceedings end in success. The management board will also avoid liability if the simplified restructuring does not end successfully, but immediately after it is discontinued, the management board files for bankruptcy or opens one of the "old" restructuring proceedings.

DZP has an experienced team of specialists who are indispensable to businesses in crisis. We offer the assistance of not only lawyers but also restructuring advisers. We have a multi-disciplinary restructuring team made up of specialists in various sectors, all of whom have broad expert knowledge and extensive experience in matters regarding their own discipline relating to business insolvency.

We are at your disposal

Corporate and M&A Practice – restructuring and bankruptcy proceedings



Marek Świątkowski

Partner

E: marek.swiatkowski@dzp.pl



Michał Cecerko

Senior Associate

E: michal.cecerko@dzp.pl

Labour and Social Security Law Practice – employment restructuring



Agata Mierzwa

Partner

E: agata.mierzwa@dzp.pl



Paulina Janas

Senior Associate

E: paulina.janas@dzp.pl

Dispute Resolution Practice – criminal and financial liability of managers



Paweł Lewandowski

Partner

E: pawel.lewandowski@dzp.pl



Rafał Karbowniczek

Senior Associate

E: rafal.karbowniczek@dzp.pl

Tax Practice – tax liability of managers



Artur Nowak

Partner

E: artur.nowak@dzp.pl



Paweł Suchocki

Tax Manager

E: pawel.suchocki@dzp.pl

Infrastructure & Energy Practice – state aid in debt restructuring



Anna Glapa

Partner

E: anna.glapa@dzp.pl



Tomasz Zielenkiewicz

Senior Associate

E: tomasz.zielenkiewicz@dzp.pl

Capital Markets & Financial Institutions Practice – credit debt restructuring



Magdalena Skowrońska

Partner

E: magdalena.skowronska@dzp.pl



Tomasz Kalicki

Senior Associate

E: tomasz.kalicki@dzp.pl