

## **RUSSIAN PARLIAMENT APPROVES CHANGES TO LEGISLATION SETTING OUT THE RULES FOR INTRODUCTION OF A MORATORIUM ON INSOLVENCY OF RUSSIAN COMPANIES**

As set out in our previous alert, in his Address to the Nation of 25 March 2020, President Vladimir Putin announced a package of measures intended to mitigate adverse consequences for businesses affected by the Covid-19 outbreak. In implementation of one of these measures, the Russian Government has proposed changes to the insolvency legislation, setting out the rules for introducing a moratorium on the filing of creditors' petitions for the bankruptcy of Russian companies. The changes contained in a draft amendment to the Law on Insolvency (Bankruptcy) were adopted by the State Duma on 31 March 2020 with unprecedented speed (in three readings in one day) and approved by the upper house of the Russian Parliament and will come into force upon signature by the President.

According to the new law, the Government will be entitled, in certain extraordinary cases (which include, according to the law: "nature or technology-related emergency events, significant fluctuations in the rouble exchange rate and similar circumstances") to introduce a temporary moratorium on the filing of bankruptcy petitions by creditors of a Russian company. The Government will have a discretion to set a period for such moratorium and to apply this regime to certain sectors of business or even to named entities affected by the extraordinary events.

During the period of the moratorium, any affected company will be exempt from the obligation to file for its own insolvency in circumstances where other non-exempt companies are required to do so by law. In addition, certain restrictions will apply during the moratorium period, including:

- set-off against the company's claims is prohibited if it would breach the statutory order of priority;
- payment of dividends to shareholders and distribution of profit to participants are prohibited;
- penalties or other financial sanctions on overdue payments will not accrue;
- enforcement of pledges and mortgages (whether through the courts or without recourse to the courts) is prohibited; and
- any debt recovery proceedings on claims which arose before the introduction of the moratorium are suspended (but any attachment of the

company's assets and other restrictions on disposal of assets imposed in the execution proceedings are not lifted).

If insolvency proceedings are initiated against a company within 3 months following the end of the moratorium, among other things, any transactions connected with the disposal of assets and giving rise to obligations on the part of the company during the moratorium, other than transactions in the ordinary course of business with respect to assets or obligations the value of which does not exceed 1% of the company's asset value, will be deemed to be void; (ii) the calculation of suspect periods preceding the opening of insolvency proceedings when preferential transactions, transactions at an undervalue and transactions aimed at defrauding creditors may be challenged is changed to take into account the moratorium period.

At the same time, under the new law during the moratorium a company is not prohibited from initiating its own insolvency by filing a petition to the court where it would otherwise have the right to do so under the Law on Insolvency (Bankruptcy). The law does not set out any special rules for bankruptcy proceedings initiated by a company during the moratorium.

The effectiveness of the proposed regime will need to be verified in practice once the list of sectors of business eligible for the moratorium has been established by the Government.

Should you have any queries about the measures described above or if you would like to discuss how the above changes may impact your business, please contact the authors of this alert or your usual Clifford Chance contacts to address your concerns.

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