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Parliament of Georgia adopted the new law on Rehabilitation and Collective Satisfaction of Creditors

On 18 September 2020, new law on Rehabilitation and Collective Satisfaction of Creditors was published on the website of the Legislative Herald of Georgia.

The main aim of the law is to protect the interests of the creditors, promote mechanisms for rehabilitation, strengthen the role of the courts during the insolvency proceedings, separation and clarification of the rights and responsibilities of the persons involved in the process and the creation of fair regulations.

- ▶ New law introduces and regulates the profession of an insolvency practitioner, whose authorization rules and conditions are defined by a normative act of the Minister of Justice. Law makes the participation of insolvency practitioner mandatory during the insolvency proceeding.
- ▶ For the ease of communication the new law introduces the electronic system that ensures the ability of parties to perform actions required by law through electronic means, including submitting relevant applications, publish relevant information and exchange it with persons involved in insolvency proceedings; Every decision rendered by the courts will also be published via electronic system no later than on the second working day of its issuance.
- ▶ New law introduces the concept of “Regulated Arrangement”, a quasi-judicial and less formalistic procedure that enables the debtor to negotiate debt restructuring with its creditors and give them an opportunity of having the arrangement approved by the court. The purpose of the Arrangement is to maintain the debtor as an operating enterprise.
- ▶ Insolvency proceedings are initiated by a notice, a request for the rehabilitation or the bankruptcy of the company, which can be submitted to the court by interested parties. New law enables the debtor to submit a written answer to this notice, before court makes the final decision on its admissibility.
- ▶ Decision of the court on the admissibility of the notice will automatically commence the moratorium, which entails several measures directed at the conservation of the debtor’s property, including the cease of accruing the interests and suspension of any enforcement measures.
- ▶ One of the most important principles of the new law is the transparency; hence, the convocation of the creditors' meeting, decisions and minutes of the meeting will be published through the electronic system.
- ▶ Law introduces a new concept “Insolvency Mass”, to resemble the whole accumulated property of the debtor at the time the notice of insolvency is deemed admissible, as well as the property attained from this moment on.
- ▶ Law sets forth a new principle for ranking creditors that only applies in the case of bankruptcy; in the rehabilitation plan creditors have the freedom to determine the relevant ranking. In addition the new law creates the notion of a “preferential claim” for employee’s claims and abolishes the unconditional preferences of all tax claims reinforcing that only indirect taxes accrued over the period of three years preceding the opening of insolvency regime shall be entitled to take precedence over the claims of unsecured creditors.
- ▶ Unlike the current legislation, new law vests the decision to commence bankruptcy or rehabilitation proceedings upon

courts.

- ▶ Another novelty of the law is that the court has an option to leave an incumbent management in place, if it demonstrates that it has been complying with its managerial duties of diligence, care and loyalty. In this case the court appoints rehabilitation supervisor.
- ▶ Law prescribes specific, separate procedures for bankruptcy and for rehabilitation. It also sets forth regulations for International Insolvency.
- ▶ Court fee for the commencement of insolvency proceedings equals the 3% of the Insolvency mass. In any case it must not be less than 500 lari and more than 10'000 lari. The payment of the court fee differs on the initial stage depending on who is the applicant.

Law becomes effective on 1 April 2021.

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