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On restructuring, rehabilitation and bankruptcy procedures in the light of the COVID-19 epidemic and the current economic situation

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The declaration of a state of emergency in the light of the COVID-19 epidemic, the following quarantine, the related restrictions, the fall in oil prices and the subsequent devaluation of tenge, together will have a serious negative impact on the financial situation of whether debtors or creditors. This can lead both to the need to protect debtors from the claims of creditors, and to protect the interests of creditors in order to avoid abuse by the debtors. Therefore, we considered it appropriate to remind readers of the main insolvency resolution regimes that are available to creditors and debtors under the Law of the Republic of Kazakhstan On Rehabilitation and Bankruptcy (the “Law”).

Basic procedures

The Law of the Republic of Kazakhstan On Rehabilitation and Bankruptcy provides for the main three procedures for resolving insolvency:

- ▶ Debt restructuring procedure;
- ▶ Rehabilitation procedure; and
- ▶ Bankruptcy proceeding.

The application of the restructuring or rehabilitation procedure is possible upon the occurrence of the so-called “temporary insolvency” of the debtor, i.e. when, for example, the debtor made a delay of four months. Nevertheless, taking into account the amendments adopted to the Law dated 27 December 2019, there is no longer a minimum debt limit that can serve as the basis for such a statement.

The bankruptcy procedure is possible in a situation where the debtor has a “persistent insolvency” if: the debt exceeds its assets at the filing date of the bankruptcy petition and this situation existed at the beginning of the year in which the petition was filed.

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