Restructuring and Insolvency measures in Luxembourg - April 2020

Insights - 20/04/2020

Background

Luxembourg went into full Coronavirus lockdown on March 16. By the ministerial decree of 16 March 2020, the State narrowed down the movement of citizens to the essential activities (notably the procurement of food, medication and basic necessities and travel to health facilities) and has ordered to limit business activities and allow people to stay at home. For workers engaged in other (non) commercial activities, the state recommends using home office and reducing activities to tasks that are essential for the operation of the business.

On 18 March 2020, the Luxembourg government declared the State of Emergency due to the Covid-19 pandemic (the **State of Emergency**). During this time , the government may impose measures deviating from existing laws so as to allow rapid legislative decisions to be made without going through the parliament, but through regulations or decrees. The government can however only take exceptional measures in the context of the Coronavirus outbreak.

Luxembourg did not close its national borders. However, it implemented a lock-down situation as Belgium, France and Germany closed their frontiers. As a result of the closed borders by the neighbouring states, since 16 March 2020 there is limited outgoing movement from the country.

The Luxembourg government presented its exit plan on 15 April 2020. Starting 20 April, construction sites and all associated business activity will reopen with stringent measures to prevent the spread of Coronavirus, DIY stores, gardeners, landscapers and plant shops will be allowed to reopen as wells as recycling centres. Other shops, hotels and restaurants are not yet entitled to reopen. Residents will be obliged to wear a mask or alternative mouth covering when entering a place where they may come within two metres of another person not from their household. The second phase will start on 11 may when secondary schools will reopen. Students will be separated into two groups, which will alternate weeks in school, to limit contact as much as possible. Primary schools will only reopen on 25 May.

Domestic Luxembourg Business

From a state perspective, the Luxembourg government has extended the State of Emergency to mid-June 2020.

A bill of law will be enacted shortly to address the negative impact of the pandemic on the national economy during the State of Emergency by granting repayable government loans up to EUR 500,000 under specific conditions. These loans will be available for enterprises employing 50 to 250 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million to EUR 50 million. Another bill of law is currently under discussion before the Luxembourg Parliament regarding a state guarantee scheme for new bank loans for a maximum period of 6 years. Once the law comes into effect loans up to EUR 2,5 billion that will have been granted during the period from 18 March 2020 to 31 December 2020 will be guaranteed at 15% rate by the participating banks and 85% rate by the State.

Furthermore a Grand-Ducal regulation provides for the establishment of a government fund aiming to provide non-repayable funding to companies employing nine or less persons with an annual turnover of at least EUR 15,000.

In addition, the Luxembourg Trade and Companies Register confirmed that companies will have an additional administrative period of 4 months to make their financial data filings.

Finally the Luxembourg government has decided that during the State of Emergency the state counterbalances 80% of the salaries for all businesses that have had to completely or partially cease their activities.

From a private sector perspective several banking institutions are taking part in the economic stabilisation program and support professional and business customers by according a moratorium on loan agreements. In particular the state investment bank (**SNCI**) has implemented a special financing program for small and medium sized enterprises in order to face exceptional needs until 31 December 2020. All local shops and restaurants renting properties from the City of Luxembourg will also be exempt from paying rent for the period of the lockdown.

The Luxembourg and Belgian governments reached an accord on cross-border workers telecommuting during the covid-19 outbreak. Under Belgian law, cross-border commuters can only work at home for a maximum of 24 days per year until they are subject to Belgian income tax and social insurance contributions. These rules were suspended effective Saturday 14 March until the end of the lockdown.

Regulated Luxembourg Business

In light of circumstances due to COVID-19, the Luxembourg financial regulator (the **CSSF**) maintains its supervisory mission by publishing recommendations for professionals and coordinate actively with the European authorities, such as the European Central Bank (ECB), the European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA).

The first set of recommendations was released on 2nd of March focusing on business continuity, the protection of staff by increased remote working, and waivers to ensure quick implementation of necessary IT-measures by regulated entities. On the 22nd of March, the CSSF advised all supervised entities to immediately review their organisational setup to ensure the temporary increased remote working conditions.

Further measures taken by the CSSF have included a permitted delay of a number of regulatory reporting (after seeking permission from the regulator), a permitted delay to long form reports where necessary, and a new complaints policy which is to be digital-only. The CSSF has also launch a new weekly questionnaire to investment fund managers with the objective to continue ongoing supervision of the investment fund sector.

Furthermore, the CSSF has issued a FAQ on COVID -19 on 14 April 2020 containing the publications and updated taken by the CSSF since March 2020.

The Luxembourg insurance regulator (the **CAA**) has also taken similar measures by closing the offices to the public and operating on a digital-only basis, with increased remote-working capabilities. Furthermore, a number of deadline extensions have been granted as regards to dispute resolution and out-of-court settlement deadlines.

International Luxembourg Business

On 25 March 2020, the government issued a Grand Ducal Regulation on the suspension of deadlines in judicial matters and the adaptation of certain other procedural provisions (the **Regulation**). Thus the one-month period within which the admission of bankruptcy must be made is suspended as part of the Regulation. In neighbouring countries, the French government is authorized to take measures to adapt French insolvency law however the exact scope of these measures is still to be defined and could potentially include an extension of the deadline of the obligation to file for insolvency. In Belgium, no new legislation in relation to corporate restructuring and insolvency has been implemented following the outbreak of COVID-19. It is expected that Luxembourg will monitor closely any developments in insolvency law by its neighbours.

The Luxembourg government announced a EUR 8,8 billion package of measures to support the economy in light of the Covid-19 pandemic with the objectives of facilitating borrowing, maintaining liquidity requirements of a business and to sustain employment. It has introduced a series of temporary measures intended to support those affected by the Covid-19 disruption whilst setting up a stabilization plan for the economy. Such measures provide support to businesses in the form of tax measures, financing and debt facilities and include among others payment deadline deferrals for income tax (corporate tax), communal business tax and wealth tax, bank guarantees for companies facing cash flow difficulties and aid schemes intended to support SMUs that find themselves experiencing temporary financial difficulties as a result of the repercussions of the Covid-19 pandemic on a national or international scale.

The Luxembourg Stock Exchange is to waive the listing fee until 30 September 2020 for social and sustainable debt instruments issued to address the consequences of the current Coronavirus pandemic. To qualify, bonds will have to be clearly identified as Covid-19 response bonds and be eligible for display on the Luxembourg Green Exchange.

Luxembourg is renowned for its economic and political stability, low levels of sovereign debt and one of the highest GDPs globally. It has demonstrated a strong track record of applying regulatory change and it is expected that Luxembourg will continue to protect its status as one of the largest global financial centres.

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