

Law on Out-of-Court
Financial Restructuring
Comes into Force in Ukraine

KINSTELLAR

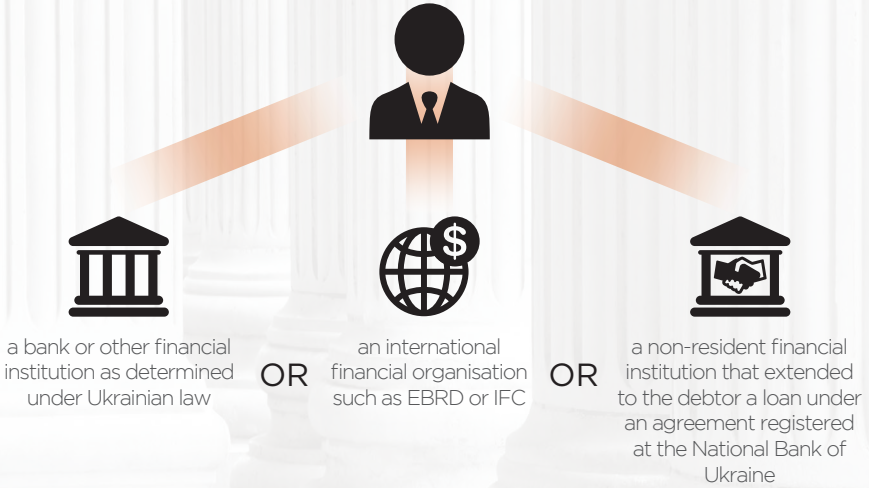
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WHO can commence a financial restructuring process?

A debtor, where it is supported by any of the following creditors which is not a related party of the debtor:



provided that it holds, individually or together with other financial institution(s), at least 50% of all financial institutions' claims (excluding claims by the debtor's related parties)

MULTIPLE DEBTORS in the same corporate family may have a joint proceeding where



WHAT can a financial institution do?

Insolvency Proceedings



Prevent any other creditor to start insolvency proceedings against the debtor



Suspend for the term of restructuring any insolvency procedure against the debtor prior to the court's ruling on the commencement of proceedings

Moratorium

Impose moratorium for at most 180 days on



the debtor and its related parties



other creditors in relation to non-current unencumbered assets of the debtor



tax, customs, treasury and state enforcement bodies, if their claims are less than 1/3 of all participating creditors' claims

Cramdown

Cram into the restructuring plan



participating creditors that did not vote for the restructuring plan, if their claims are less than 1/3 of all participating creditors' claims



related parties of the debtor



tax, customs, treasury and state enforcement bodies, if their claims are less than 1/3 of all participating creditors' claims

Tax Incentives

Take advantage of tax benefits in connection with approval of the restructuring plan



Where tax authorities participated in the process, 3-year old tax debt and disputed penalties of the debtor will be considered fully written off



The increase of the financial result due to reversal of loan loss provisions may be done gradually, by 1/3 of such amount in each of the following three years



The financial result shall not be increased even if the cancelled debt is not a "bad debt"



Sales proceeds used by the debtor to repay its debts in accordance with the restructuring plan are exempt from VAT



The debtor's assets shall be released from any tax pledge and administrative arrest

HOW and WHEN: timeline and important deadlines

Day 1

The debtor submits a written application for restructuring to the secretariat accompanied by consent(s) of financial institution(s) holding in aggregate at least 50% of total claims of all financial institutions (excluding claims of the debtor's related parties)

The secretariat decides on the commencement of the restructuring process and notifies the creditors indicated in the debtor's application of the date of the first creditors meeting. The moratorium on the creditors' claims is imposed automatically for the initial 90-day period.

Day 2 – not later than on the next business day after Day 1

Within 10 business days, but not earlier than 7 business days, after Day 2

The first creditors meeting must be held.

The debtor must provide the participating creditors with, in particular, (1) the background for restructuring, (2) information on overdue debt, (3) creditors' contractual rights to accelerate any loans, (4) any breaches of the security agreements, (5) the debtor's 12-month financial forecast and (6) list of existing court and enforcement proceedings.

7 business days prior to the date of the first creditors' meeting

2 business days prior to the date of the first creditors' meeting

The debtor may supplement the list of the participating creditors.

The debtor may recall its application for restructuring.

Within 30 days after Day 1

Within initial 90 days after Day 2 (that may be extended up to 180 days)

The restructuring plan must be approved in respect of the debtor.

The debtor may not again file for restructuring under the Financial Restructuring Law.

Within 18 months from the date of commencement of the previous restructuring procedure

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