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Luxembourg bankruptcy law reform: promoting a new start for debtors

As the number of bankruptcy proceedings in Luxembourg continues to build up at a breakneck pace – with Cardoso, a prominent residential construction company in the Luxembourg construction landscape finding itself at the brink of bankruptcy – the Luxembourg legislator has now finalized the reform and modernization of the bankruptcy regime by adopting the law relating to the preservation of businesses and modernizing the law of bankruptcy on 19 July 2023.

Importantly, the new law introduces three pre-bankruptcy reorganization measures aimed at saving the relevant business, being (i) a conciliation procedure (with assistance of the Minister for the Economy or the Minister for Small and Medium-Sized Enterprises), (ii) reorganization proceedings by mutual agreement and (iii) judicial reorganization proceedings.

It is further notable that the new law will apply to Luxembourg special limited partnerships (*sociétés en commandite spéciales*) in addition to other commercial/civil companies, reflecting the reality that this legal form has gained significant traction among business owners in the past years.

Furthermore, under the new law company creditors will continue to benefit from collateral arrangements established under the Luxembourg law of 5 August 2005 on financial collateral arrangements, as amended, and will be able to enforce the security rights in the collateral.

While the preservation of businesses via various new reorganization measures has been advanced as the Leitmotiv of the new law, business owners should recall that when their business gets into financial trouble and such organization measures do not work out as desired, it is critical to file a bankruptcy request with the competent court within one month from the date of cessation of payments and the loss of creditworthiness.



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