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European Monitoring Centre on Change

## Cyprus: Rescue procedures in insolvency

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Cyprus

Phase:

Management

Type:

Rescue procedures in insolvency

Last modified: 09 September, 2019

Native name:

Ο περι εταιρειών νόμος (κεφάλαιο 113)

English name:

Companies Law (Chapter 113)

### Article

Article 202A-202LH; Article 97, Articles 222-225

### Description

An examinership procedure was introduced in 2015 with an amendment to Cyprus' Companies Law (Chapter 113). The Law 62(I)/2015 amending the Companies Law is adding Part IVA 'Appointment of Examiner'.

The examinership procedure allows a company risking insolvency, or a creditor or a contingent or a prospective creditor (including an employee) of that company, to apply for examinership. The application must be accompanied by a rescue plan.

An examinership procedure envisages the appointment of an examiner (an expert in insolvency), under the court's supervision, who is in charge of evaluating the rescue plan. If the rescue plan is considered viable the court allows for the start of rescue operations. For the plan to take effect, the creditors' committee must agree with the plan, too.

During examinership, which can last up to six months (including extension), the assets of the company are protected from the enforcement of individual claims. The examinership ends by order of the court when insolvency problems are resolved or when no rescue operation is deemed possible by the examiner. In the latter case the court may order the company to be wound up.

Another rescue procedure is receivership (Companies Law, article 97 and 222-225), which allows for a creditor to claim their due but also allows for the continuation of the operations of the company. The court decides to appoint a receiver when it deems necessary to protect the creditor's claims. The receivership procedure puts the company's operation in the hands of the receiver who can decide how to recover the amount of the claim by selling, in whole or in part, the company's assets. The receivership procedure ends when the debtor's claim is satisfied. The receivership procedure should allow a company to return to its regular business operations once the debt is paid.

### Comments

Examinership has many advantages to companies at risk of insolvency, as it provides them with some time in order to formulate a rescue plan.

Despite article 202IZ, which provides for the examiner to submit a notification on his/her appointment to the Department of the Registrar of Companies and Official Receiver, and the latter to publish such information on its websites, no such information is systematically administered and published. According, to information received by the Insolvency Service via other routes, at least 18 companies have entered into examinership since the revision of the Companies Law in 2015. The number of companies under examinership should be higher. Statistics over outcomes of examinership procedures are not available.

#### Cost covered by

Not applicable

#### Involved actors other than national government

Other

#### Involvement others

Court, creditors

## Thresholds

No, applicable in all circumstances

## Sources

- 📖 Ο περί εταιρειών νόμος (Κεφάλαιο 113)
- 📖 LEGISLATION REGARDING APPOINTMENT OF EXAMINER (EXAMINERSHIP) - Unofficial translation in english of Companies (Amending) (No. 2) Law of 2015 - examinership
- 📖 Elias Neocleous; Maria Kyriacou; Andreas Neocleous & Co LLC: Restructuring and insolvency in Cyprus: overview
- 📖 Demetris Loizides: Amendments to Cypriot Companies Legislation Introduce Examinership
- 📖 Andri Antoniou: Examinership: A missed opportunity (2018)
- 📖 Keane - Vgenopoulou Associates LLC: Brief Guide to Examinership in Cyprus

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