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Relativity & Realism in Restructuring

*Cross-class
cram-down
mechanism
examined*

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Latvia: Amendments to Insolvency Law

A set of amendments to the Latvian Insolvency Law and the Civil Procedure Law was adopted on 31 May 2018. The amendments partially entered into force in July, another part will enter into force in 2019 and some of the amendments still require adoption of secondary legislation. The scope of the amendments is rather broad and this review focusses on several of the issues covered by them.

Change of the name of the supervisory institution

The name of the governmental institution in charge of supervising

insolvency and restructuring proceedings has been changed and the Insolvency Administration has now become the Insolvency Control Service. From the legislator's perspective, the new name delivers a message regarding the role and functions of the institution better than the previous one.

Random appointment of administrators

Until now, administrators have been appointed in insolvency proceedings pursuant to a roster. Despite several targeted measures implemented over the last couple of years, the current system of appointment was assessed as still being vulnerable to interference.

Therefore, the amendments aim to introduce random automated appointment of administrators.

Introduction of the electronic insolvency registration system

The amendments introduce an online platform called electronic insolvency registration system, which is aimed to become an unprecedented comprehensive platform having the functions of storing information on insolvency administrators and restructuring supervisors, insolvency and restructuring proceedings, submission of creditor's claims, exchange of information among different players (e.g. an administrator and a debtor's representative) etc.

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Resolution of disputes related to creditors' claims

Special procedural rules have been introduced for resolving disputes concerning creditors' claims. Previously, if an administrator rejected a creditor's claim, the creditor had to challenge the administrator's decision in the court charged with adjudicating the insolvency proceedings of the debtor. However, the insolvency proceedings are not designed for the resolution of substantive disputes (e.g. as regards the existence or the amount of a creditor's claim), and the only vehicle for the resolution of such disputes under the Latvian Civil

Procedure Law is the so-called claim proceedings (proceedings by way of an action). Hence, if the court established that there was a substantive dispute, it merely ordered the creditor to bring a claim into court having jurisdiction over the said dispute, which may or may not have be the same court that hears the insolvency proceedings. It often resulted in a lengthy litigation running alongside insolvency proceedings, procedurally independent and disconnected from them.

Now such disputes will be heard by the same court and in an expedited manner. Namely, the case must be examined in a

written procedure within 30 days from the submission of explanations to the claim by other involved parties, while the court ruling may only be appealed once, provided that the specific preconditions for the initiation of appellate proceedings are established by the court of appeal.

In addition, the creditor whose claim has been rejected by the administrator on the grounds of a dispute will be entitled to bring the claim into court for the resolution of a dispute right away, without the need to separately challenge the administrator's decision *per se*.