



LEGAL UPDATE

DRAFT AMENDED LAW ON BANKRUPTCY

The Supreme People's Court is currently conducting research, drafting, and gathering opinions from relevant parties to finalize the third draft of amended Law on Bankruptcy ("**Draft Law**"). The Draft Law introduces various amendments and reforms compared to the 2014 Law on Bankruptcy ("**2014 Law on Bankruptcy**"). These new provisions aim to protect the legal rights and interests of parties involved in business recovery and bankruptcy proceedings, align with international practices, and address the existing shortcomings of the 2014 Law on Bankruptcy.

This update highlights some significant points of the Draft Law as follows:

1. New rehabilitation procedures

The Draft Law regulates rehabilitation as a separate procedure applicable to entities at risk of insolvency, replacing the rehabilitation regulations integrated into the bankruptcy proceedings which is applicable to insolvent entities under the 2014 Law on Bankruptcy.

The rehabilitation procedure consists of the following main steps:

- i. A representative of enterprises at risk of insolvency or insolvent enterprise (i.e., legal representative, owner of a single-member limited liability company, chairman of the Board of Directors, chairman of Members' Council, etc.) submits an application to the specialized court;
- ii. The judge reviews the application to determine whether the next procedure can be carried out or other actions from relevant parties (i.e. amendment of the application, transfer of application to another specialized court, return of application) must be taken;
- iii. The specialized court accepts the application and commences the rehabilitation procedure;
- iv. The enterprise submits a list of creditors, debtors and documents regarding the debts to the court which are reviewed by the asset management officer;

- v. The enterprise develops a rehabilitation plan after consulting with the asset management officer and the Creditors' Council; and
- vi. The enterprise implements the approved rehabilitation plan under the supervision of the asset management officer and the Creditors' Council.

2. Amended bankruptcy procedures

To align with the provisions of the Law on Enterprises and address difficulties in applying the 2014 Law on Bankruptcy, the Draft Law expands the list of entities entitled and obligated to file a petition for bankruptcy proceedings. It includes members or groups of members holding at least 65% of the total charter capital of a multi-member limited liability company or a lower percentage as specified in the company's charter.

The Draft Law proposes two options for approving resolutions of the creditors' meeting as follows:

- **Option 1:** Approval requires the affirmative vote of unsecured creditors representing at least 65% of the total unsecured debt (The total number of creditors participating in the vote is not taken into account);
- **Option 2:** Approval requires the presence of more than half of the total number of unsecured creditors and the affirmative vote of those representing at least 65% of the total unsecured debt (The total number of creditors participating in the vote is taken into account, maintaining the current regulation).

3. Expedited rehabilitation and bankruptcy procedures

The Draft Law introduces the expedited rehabilitation procedure and amends the expedited bankruptcy procedures established under the 2014 Law on Bankruptcy.

The expedited rehabilitation procedure applies to:

- Enterprises with fewer than 20 unsecured creditors and whose total debt of less than VND 10 billion; or
- Small companies and microenterprises.



Entities eligible for the expedited bankruptcy procedure include those qualifying for the expedited rehabilitation procedure and other special cases, such as:

- Entities with no remaining assets to pay bankruptcy fees;
- Credit institutions unable to meet payment obligations that have been terminated from special control by the State Bank of Vietnam; or
- Insurance enterprises that have had control measures lifted by the Ministry of Finance.

The timeframe for completing expedited rehabilitation and bankruptcy procedures shall be reduced by 50% compared to the standard procedures.

The new regulations of simplified procedures aim to facilitate the resolution of recovery and bankruptcy cases for small-scale businesses and cooperatives with limited financial resources, expediting the process, reducing costs, and mitigating the social consequences of bankruptcy.

4. Competence of Specialized People's Court for Bankruptcy

To comply with the 2024 Law on the Organization of Courts, the Draft Law stipulates that the Specialized People's Court for Bankruptcy will handle all bankruptcy cases, with judges focusing on guiding parties in evidence collection. This significant change from the 2014 Law on Bankruptcy ensures that bankruptcy cases are handled in a centralized and professional manner at specialized courts, creating favourable conditions for the more efficient resolution of bankruptcy procedures.

5. Assistance to foreign bankruptcy cases

Under the Draft Law, foreign courts, competent authorities, and foreign bankruptcy representatives in Vietnam may request Vietnamese courts to verify, inventory, appraise, liquidate, and recover assets, as well

as to require foreign debtors to fulfil their obligations to Vietnamese enterprises. Conversely, Vietnamese courts may also request foreign courts and competent authorities to assist in handling such cases.

Furthermore, the Draft Law introduces specific provisions for recognizing and enforcing foreign courts' judgements on bankruptcy, which currently follow the general provisions under the Civil Procedure Code. Notably, the Draft Law outlines specific grounds on which Vietnamese courts may refuse to recognize and enforce such judgements or decisions. These include cases where judgment or decision:

- Contradicts a Vietnamese court's judgment or decision;
- Violates fundamental principles of Vietnamese law;
- Conflicts with international treaties to which Vietnam is a party; or
- Seriously infringes on the rights of creditors, debtors and related parties, among others.

6. Conclusion

The Draft Law is expected to be presented to the National Assembly for discussion during its 9th session in May 2025 and for approval at the 10th session in October 2025. Any bankruptcy case initiated under the 2014 Law on Bankruptcy that has not yet resulted in a bankruptcy decision issued by a competent court as of the effective date of the Draft Law will be governed by the new law.

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