

## CORONAVIRUS RESOURCE CENTER

# COVID-19: Moratorium on Bankruptcy Extended Until January 2021

7 October 2020

On 7 October 2020, the Decree of the Russian Government (the “Decree”)<sup>1</sup> extending the moratorium on commencement of bankruptcy proceedings filed by creditors (the “moratorium on bankruptcy” or “moratorium”) until 7 January 2021 comes into force. The new regulations apply to entities and sole entrepreneurs most affected by the spread of COVID-19 (the “most affected entities and SEs”).<sup>2</sup>

**Debtors Subject to the Moratorium.** From 6 April 2020 to 6 October 2020,<sup>3</sup> the Russian moratorium on bankruptcy applied in respect of certain classes of debtors (the “debtors subject to the moratorium”):

- the most affected entities and SEs; and
- entities included in the lists of (i) core business entities, (ii) strategic enterprises and strategic joint-stock companies and (iii) strategic institutions and federal executive bodies providing for the implementation of the national government policy in industries where such entities operate.

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<sup>1</sup> Decree of the Russian Government No. 1587 on the Extension of Moratorium on Commencement of Bankruptcy Proceedings Filed by Creditors in Respect of Certain Debtors dated 1 October 2020.

<sup>2</sup> The most affected entities and sole entrepreneurs are those whose core business code has been included in the list of the Russian economy sectors most affected by the spread of the novel coronavirus infection. The Russian Government set such list by its Decree No. 434 on the Approval of the List of Sectors of the Russian Economy Most Affected Due to Deteriorating Conditions Caused by the Spread of the Novel Coronavirus Infection dated 3 April 2020. The list covers various transport activities, hotel business, catering, various non-food retail businesses, etc.

<sup>3</sup> Decree of the Russian Government No. 428 on the Imposition of Moratorium on Commencement of Bankruptcy Proceedings Filed by Creditors in Respect of Certain Debtors dated 3 April 2020. See also our Client Update available at: <https://www.debevoise.com/insights/publications/2020/04/covid-19-major-amendment-of-russian-legislation>.

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The Decree limits the list of debtors subject to the moratorium to the most affected entities and SEs. Other categories of debtors which were originally subject to the moratorium will no longer qualify as such starting from 7 October 2020.<sup>4</sup>

**Principal Restrictions and Rights of Debtors Subject to the Moratorium.** The moratorium on bankruptcy involves a number of restrictions for debtors subject to it. For example, such a debtor may not (i) acquire its outstanding shares or pay the actual value of participatory interest or (ii) pay dividends or distribute profits among its shareholders. In addition, (iii) no penalties or other financial sanctions accrue for non- or improper performance of monetary obligations, (iv) no pledged property is subject to any enforcement, including out-of-court enforcement, and (v) enforcement proceedings under claims made prior to the moratorium are suspended.<sup>5</sup>

The debtors subject to the moratorium may ask for a judicial deferral.<sup>6</sup> Such deferral means, among other things, changes in due dates under obligations and termination of enforcement proceedings under the claims made prior to the judicial deferral. A judicial deferral may be granted by the relevant *arbitrazh* (commercial) court.

Starting from 7 October 2020, such restrictions and rights will continue to apply only to the most affected entities and SEs.

**Moratorium Waiver.** Effective from 24 April 2020, persons subject to the moratorium may waive the application of the moratorium by filing a waiver application with the Unified Federal Bankruptcy Register.<sup>7</sup> Upon publication of such waiver application (i) the moratorium on bankruptcy will no longer apply to the relevant person and (ii) such person and its creditors will no longer be subject to the above restrictions or any other restrictions set forth by Articles 9.1(2) and (3) of the Bankruptcy Law.

If the moratorium is extended, the earlier waivers will cease to be effective. However, any person subject to the moratorium may waive its application again.

Hence, from 7 October 2020, all waivers of the debtors subject to the moratorium will no longer be effective. If the most affected entities and SEs that have previously waived

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<sup>4</sup> Taking into account that whether or not an entity or a sole entrepreneur qualifies as the most affected entity or SE depends on the OKVED codes of business conducted by such entity or sole entrepreneur, the bankruptcy moratorium will continue to apply to those core business entities and strategic entities which also qualify as the most affected entities or SE.

<sup>5</sup> Articles 9.1(2) and (3) of Federal Law No. 127-FZ on Insolvency (Bankruptcy) dated 26 October 2002 (the “Bankruptcy Law”).

<sup>6</sup> Articles 9.1(3.1) – (3.5) of the Bankruptcy Law.

<sup>7</sup> Article 9.1(1) of the Bankruptcy Law. From 24 April 2020 to 6 October 2020, more than 850 debtors subject to the moratorium on bankruptcy waived its application.

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the application of the moratorium are still prepared to waive it, they need to file new waivers.

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For more information regarding the legal impacts of the coronavirus, please visit our [Coronavirus Resource Center](#).

Please do not hesitate to contact us with any questions.

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