Proskauer

# Proposed Changes to UK Insolvency Laws in Response to COVID-19

**March 29, 2020**

The UK Government has announced changes to the existing UK insolvency laws in order to ease pressure on companies and give them breathing space to trade through the COVID-19 pandemic. Exact timing for implementation of the changes is not clear and Parliament is in recess until 21 April 2020 but the changes will be amended "at the earliest opportunity." The proposed changes follow those recently implemented in Germany, Australia and The Netherlands.

The proposed changes are:

1. **Wrongful trading** – a three month temporary suspension of wrongful trading provisions (with effect from 1 March 2020) to allow company directors to continue trading through the pandemic emergency without the threat of personal liability should the company ultimately fall into insolvency. Without this suspension of wrongful trading, a number of company directors would have to file for insolvency in order to avoid personal liability in this period. Existing laws for fraudulent trading and the threat of director disqualification will continue to act as an effective deterrent against director misconduct.
2. **UK's insolvency framework** – accelerated changes to the UK insolvency laws to implement the proposals from August 2018. The proposed changes include the following:
    a. a moratorium for companies giving them breathing space from creditors enforcing their debts for a period of time whilst they seek a rescue or restructure;
    b. protection of their supplies to enable them to continue trading during the moratorium; and
    c. a new restructuring plan (including a "cross-class cram-down"), binding creditors to that plan including key safeguards for creditors and suppliers to ensure they are paid while a solution is sought.

We await further details on the proposed changes and will need to see how quickly the Government can implement these changes with current resources during the COVID-19 pandemic.

* * *

Proskauer's cross-disciplinary, cross-jurisdictional Coronavirus Response Team is focused on supporting and addressing client concerns. Visit our **Coronavirus Resource Center** for guidance on risk management measures, practical steps businesses can take and resources to help manage ongoing operations.