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A Bridge Past Covid-19

Enterprise Financial Resilience

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Agenda

01 The new reality of businesses under current economic framework

02 Moratorium in the context of financial restructuring – opportunities and challenges

03 Is insolvency the first solution to navigate through this crisis?

04 Q&A

The new reality of businesses under current economic framework

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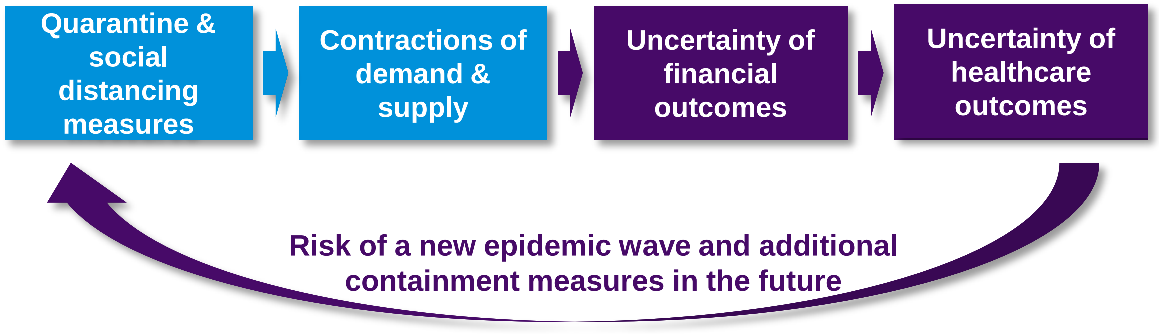
Where we are - macroeconomic views

A health crisis with unprecedented global socio-economic implications

"Just three months ago, we expected positive per capita income growth in over 160 of our member countries in 2020. Today, that number has been turned on its head: we now project that over 170 countries will experience negative per capita income growth this year"



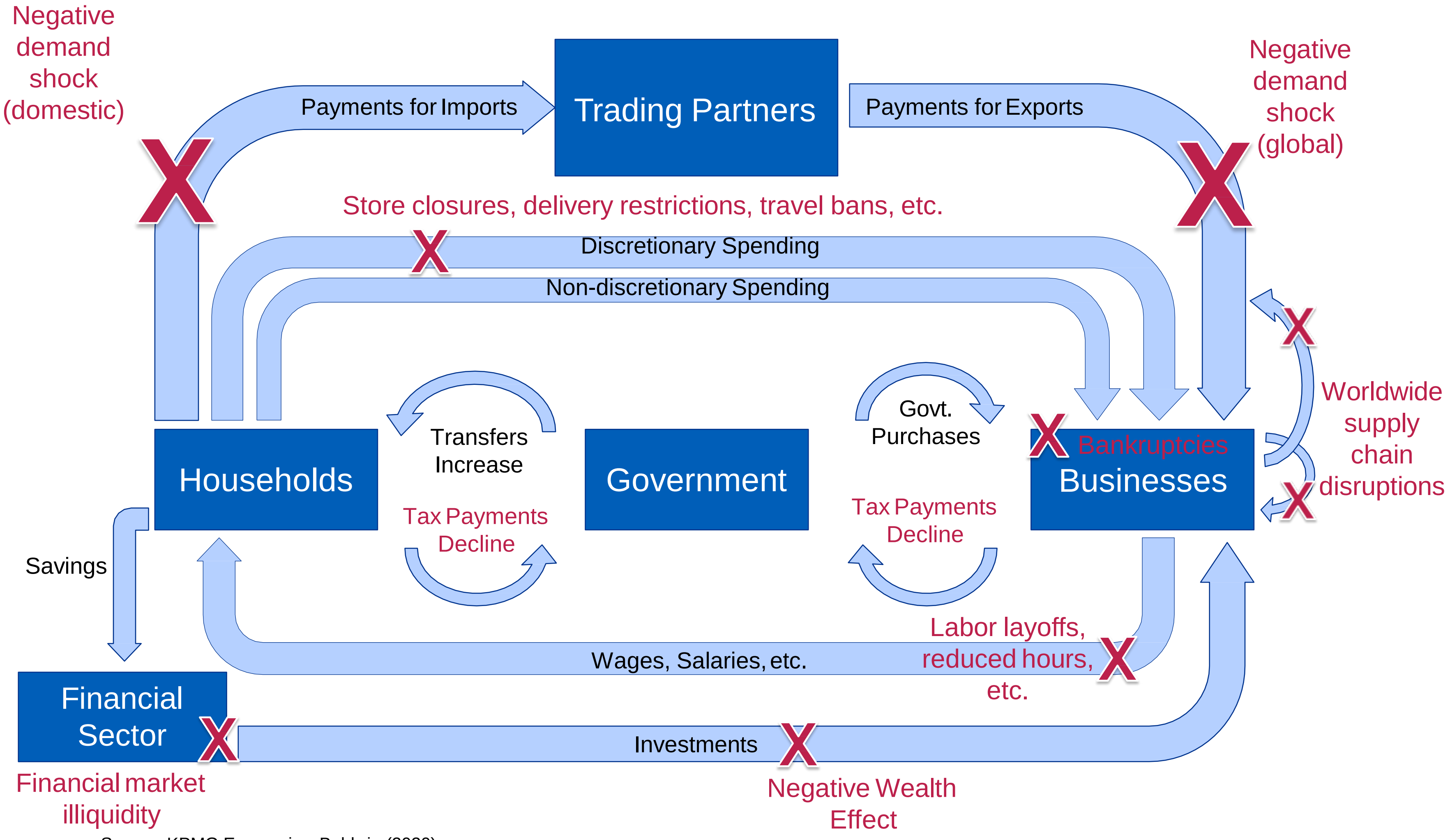
- The Covid-19 pandemic brings unprecedented challenges, fast and definitive changes to the business environment, resulting in a declining economy in the global context
- Due to the restrictions imposed by the authorities, simultaneous shocks on demand and supply have occurred, affecting all economic sectors and the global economy, which contracted abruptly in Q2 and throughout 2020
- The economy is expected to start recovering in Q3 2020, following the restrictions' easing and the economic activity reopening, but the recovery will be slow and progressive. It is estimated that a full recovery of the economy will last between 6 and 10 quarters

Key aspects

- Starting **April 2020**, approximately **78%** of the world's population have engaged in varying degrees of social distancing
- The IMF forecasts global GDP to fall by **2-3.0%** in **2020**
- The most developed economies were the most affected, compared to the emerging ones: **- 6.1% GDP** vs**. -1.0%**
- The oil price dropped dramatically to a negative level of **-40.32** $ in **Q2 2020**
- The unemployment in US is estimated to reach around **25 millions** persons in **Q2 2020**
- China's GDP decreased up to **-6.8%** y/y in **Q1 2020**
- The Eurozone will suffer the largest GDP decline, up to **-7.5%,** compared to **-5.9%** US and **+ 1.2%** China
- Romania's GDP will register a decrease of **-5.0%** in **2020**, according to the IMF and up to **-1.9%** according to the Romanian Government versus **+ 4.1%** increase in **2019**
- The unemployment rate in Romania is expected to reach **10.1%** in **2020**, compared to **3.9%** in **2019**

Source: IMF- World Economic Outlook, April 2020, KPMG Economics

The COVID-19 shock is felt throughout the entire economy



Sursa: KPMG Economics, Baldwin (2020)

- Restrictions imposed by the health crisis and behavioral changes determined a steep decline in business and consumption
- Over a million employment contracts were suspended since the beginning of the crisis
- The shock is a combined one of demand, supply and financial markets
- All sectors of the economy will be directly or indirectly affected; SMEs with high debt and low cash reserves are the most exposed
- Unprecedented government measures are needed
- Romania is especially exposed due to high budget deficit and consumption based economy

How do we maintain business agility and resilience?

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The crisis effects will be felt at organizational level, on the three main pillars: financial, operational and commercial

Financial

- Financial stress testing and forecasting
- Liquidity and financing
- Financial crisis response and contingency planning

Impact:

- Liquidity
- Income
- Assets

Operational

- Operational crisis management
- People
- Supply chain
- Technology and data
- Premises and property
- Cyber and fraud risk

Impact:

- Operational shocks
- Business continuity

Commercial

- Markets, products and services
- Customer experience and behavior

Impact:

- Market (business model changing)
- Customers/clients (behavioral change)

Main challenges and business remodeling needs

- **Supply chain:** The resilience of vertical supply chains will be critical to the continuous and efficient management of business operations. The impact of the current crisis will lead to the non-fulfillment of contracts, in light of the force majeure clause. This will have wider consequences for the availability of goods and the provision of services.
- **Digitalization:** Employees will need to be constantly connected to continue working efficiently, and this requires digital tools and applications to make their work easier. Inevitably, there is huge pressure to change the delivery channel of basic services on digital platforms. For many companies this pressure is felt for the first time.
- **Customer experience:** Emotions, needs and customer behavior determine rapid changes in demand, purchase patterns and used channels. The rules of approaching customers change significantly, with new good practices appearing daily. Customers change sales channels quickly, especially to digital for key products and services. Opportunities for innovative products and services will need to be accelerated to meet the new needs of consumers.

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Moratorium in the context of financial restructuring - opportunities and challenges

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The day after tomorrow

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Three Years Business Plan

Critical

Relative Importance

Important

Crisis management

0 – 6 Months

ORGANISATIONAL MEASURES
- Structural changes (conservation, spin-offs, split up, sale of assets)

FINANCE
- Manage cash flow
- Negotiate with creditors
- Receivables management
- Eliminate loss making entities

HUMAN RESOURCES
- Downsize
- Select a turnaround team
- Retain key employees
- Manage morale

MARKETING & SALES
- Shift resources to profitable entities
- Maintain/ communicate with key customers and channels

OPERATIONS
- Eliminate loss making entities

Stabilization

7 - 18 Months

MARKETING & SALES
- Introduce strategy for regaining market presence with limited resources
- New “Low $ Investment” products
- Focus on short term results promotion

OPERATIONS
- “Low $/high impact Investment”

FINANCE
- Seek new financing
- Repair bank and creditor relations
- Introduce new controls
- Receivables optimization
- Monitor cash flow

HUMAN RESOURCES
- Retain key employees
- Manage morale
- Develop and communicate reward systems for loyal employees

Long term recovery

19 - 36 Months

MARKETING & SALES
- Introduce long-term, strategic new products, markets & channels
- Selectively increase advertising and promotion spending
- Selectively replace lost sales force

OPERATIONS
- Address deferred investment issues
- Increase level of investment

HUMAN RESOURCES
- Introduce rewards for loyal employees
- Selectively replace lost employees

FINANCE
- Obtain new financing
- Maintain cost control
- Receivables monitorization
- Monitor cash flow

Financial restructuring over time

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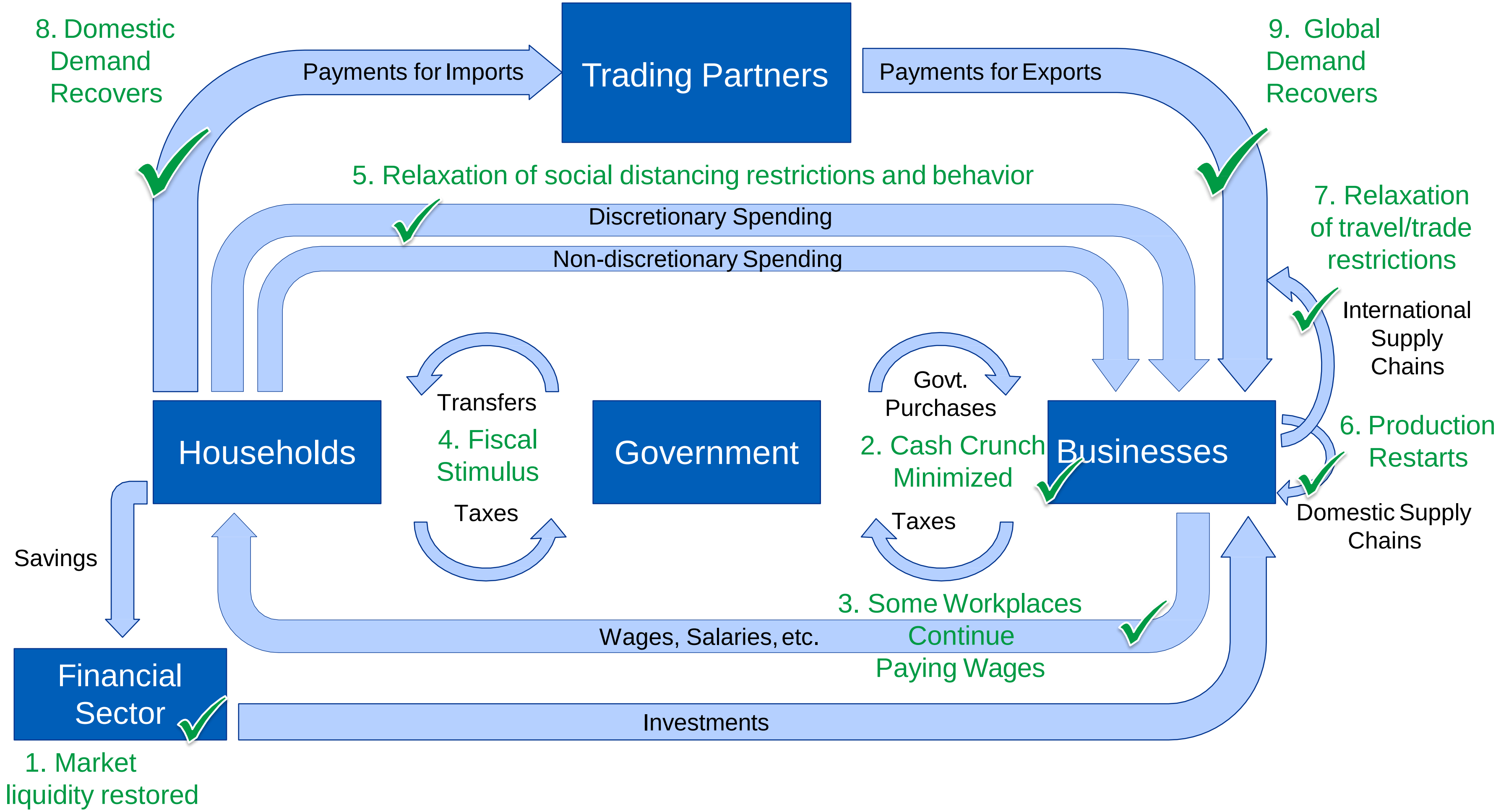
	Short term SURVIVAL	Medium term STABILITY	Long term PROSPERITY
Company	▪ Cash or cash equivalents	▪ Headroom ▪ Servicing	▪ Optimal WACC ▪ Pricing ▪ Investment capacity
Existing debt	▪ Improved probability of recoveries ▪ Reduced probability of default	▪ Servicing/ income cover ▪ Security cover ▪ Liquidity	▪ Repayment/ Refinancing
New debt	▪ Security, ranking	▪ Repayment	▪ New lending
Existing equity	▪ Upside retention ▪ Minimize dilution	▪ Liquidity	▪ Exit/ realization
New equity	▪ Risk/ Reward	▪ Yield ▪ Capital appreciation	▪ Existent realization ▪ Upside potential

Overcoming the crisis needs unprecedented measures



- Authorities took measures in order to ensure market liquidity, including the financial moratorium
- Financial sector is well capitalized and can have a significant role in the economic recovery
- Bank financing is much lower than supplier financing, such that the liquidity shortage can not be solved through the financial moratorium alone
- Maintaining liquidity, facilitating access to financing and continuation of investments are critical for overcoming the recession

Source: KPMG Economics, Baldwin (2020)

Financial moratorium - opportunities and challenges

The financial moratorium implemented through GEO 37/2020 and the application norms approved through GD 270/2020 allows debtors to request, within 45 days starting 30 March 2020, **suspension of loan installment payment obligations**, for a period of 1 to 9 months

Who can benefit?

- **Individuals**
- **Companies** – including financial institutions, other than credit institutions
- **Other categories of economic agents** (registered sole traders, family enterprises, individual enterprises, persons exercising individual professions)

For which types of contracts?

Credit contracts and **leasing contracts:**

- signed before 30 March 2020 with credit institutions and non-bank financial institutions
- which have not been declared due before 30 March 2020
- with no overdues as at 16 March 2020 (if such overdues exist, they can be payed until the date of the request)

Under which conditions?

Debtors' revenues are directly or indirectly affected by the COVID-19 pandemic and are unable to meet their payment obligations; furthermore, companies cumulatively fulfill the following conditions:

- **Were issued a blue certificate OR an yellow certificate** by MEEBE OR **declare on their own responsibility** that their business activity was totally or partially interrupted as a result of decisions made by authorities and that they cannot meet their payment obligations
- **Are not insolvent** as at the date of suspension request

What are the suspension effects?

- **Contract duration** may be extended by a period equal to the duration of suspension
- **Interest due for payment** and suspended is capitalized and paid in installments over the remaining period

For approved requests, the suspension takes effect starting with the notification date.

Legal and practical challenges

Appropriate corporate decisions should be in place

The declaration to be submitted to the creditor/s should be signed by the legal representative/s after a proper assessment of the situation as it could lead to civil or criminal law liability

Further challenge:

- in case of more representatives who should actually sign the declaration?
- who should sign in case the legal representative is not available?

May dividends be distributed/paid and still request the suspension of payments under OUG 37?

Legal challenges related to the interpretation of OUG 37

What happens with installments which become due after March 16 and which are not paid by the moment of the request?

Are all types of credits covered by OUG 37?

What happens with the covenants? Are relevant covenants amended by the effect of OUG 37?

In case of multiple creditors, how to choose what to pay and what to suspend and how the declaration should look in such a situation?

Who can choose for what period to extend the credit?

Other points to remember

1. **GEO 37/2020 does not apply to operational leasing agreements.**
2. **GEO 37/2020 applies when the creditor is a Romanian legal entity, depending on the actual situation might not apply to international financing structures, even when Romanian creditors are involved.**
3. **Leasing companies, factoring companies, insurance companies, etc. can also benefit, as debtors, from GEO 37/2020.**
4. **For debtors that do not qualify for obtaining such suspensions, credit agreements continue to produce effects (including in terms of penalty interest rates, early repayment, foreclosure, etc.).**
5. **OUG 37 may suffer amendments in order to clarify certain unclear aspects but also during the approval phase in the Parliament.**

Is insolvency the first solution to navigate through this crisis?

Marius Turcanu
Director, Restructuring
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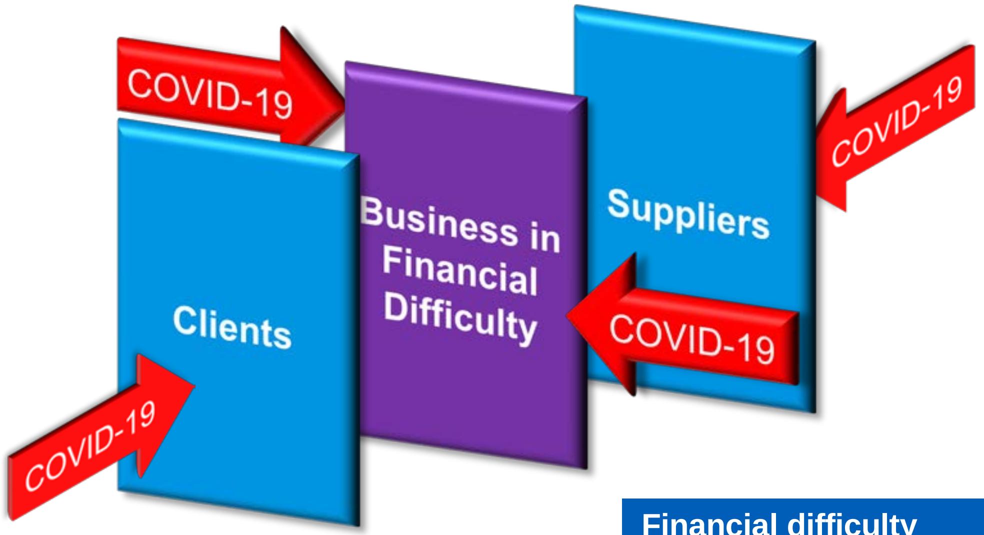
The effects of COVID-19 crisis: Business in financial difficulty or insolvency



COVID-19 effects

- The COVID-19 crisis is manifested by a combined effect on demand, supply and financial markets
- The combined effect is enhanced by the extent of the commercial credit ⇨ contagion effect in the national economy
- The most affected will be the businesses with a high level of debt and a low level of liquidity ⇨ financial difficulty or insolvency
- Between the two states there is a very fine line of demarcation, characterized by the following coordinates:

(**insufficient funds | actual potential for non-performance**)

Financial difficulty

1) Short term low level of liquidity and/or
2) Long term high level of debt,
3) Insufficiency of **resources** which can be
   - Generated from operational activity or
   - Drawn through financial activity, and

4) **the potential for non-performance** of the contractual obligations due

Insolvency

[causes that will be identified in the report on the causes and circumstances of the insolvency]

1) **the insufficiency of funds** available for the payment of certain, liquid and due debts
2) **imminent non-execution or non-execution** of certain, liquid and due payment obligations

How do we choose: pre-insolvency or insolvency?

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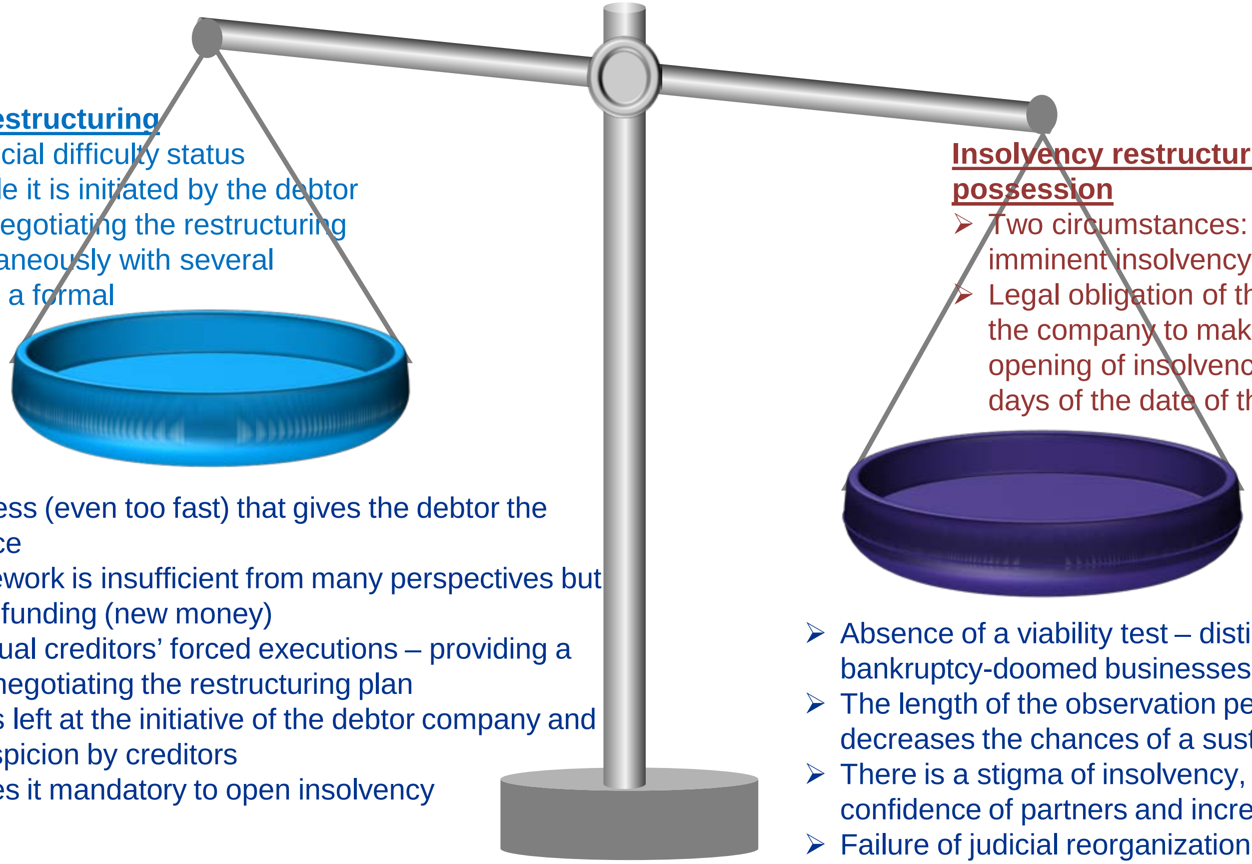
Context

- Fine demarcation between the state of financial difficulty and the state of insolvency
- Lack of a viability test - a filter for restructurable businesses in pre-insolvency and those recommended to be subject to insolvency
- Society's dilemma:

The intention of continuing the business through preventive restructuring vs. The legal obligation to file your own insolvency application



Pre-insolvency restructuring

- Condition: financial difficulty status
- As a general rule it is initiated by the debtor
- The benefit of negotiating the restructuring proposal simultaneously with several creditors, within a formal

Insolvency restructuring of the debtor in possession

- Two circumstances: presumed insolvency or imminent insolvency
- Legal obligation of the legal representatives of the company to make the application for the opening of insolvency proceedings within 30 days of the date of the insolvency

Preventive concordat:

- A very fast and flexible process (even too fast) that gives the debtor the possibility of a second chance
- The current regulatory framework is insufficient from many perspectives but especially for attracting new funding (new money)
- Allows suspension of individual creditors' forced executions – providing a collaborative framework for negotiating the restructuring plan
- The negotiated agreement is left at the initiative of the debtor company and thus is often viewed with suspicion by creditors
- Failure of restructuring makes it mandatory to open insolvency

Judicial reorganization:

- A long and grainy procedure that often leads to a decrease in value due to the speed of the process

- Absence of a viability test – distinguishing between reorganizable and bankruptcy-doomed businesses
- The length of the observation period (often over one year) significantly decreases the chances of a sustainable restructuring
- There is a stigma of insolvency, which significantly decreases the confidence of partners and increases operational costs
- Failure of judicial reorganization makes bankruptcy

Insolvency: Solution or legal obligation?

When it is mandatory?

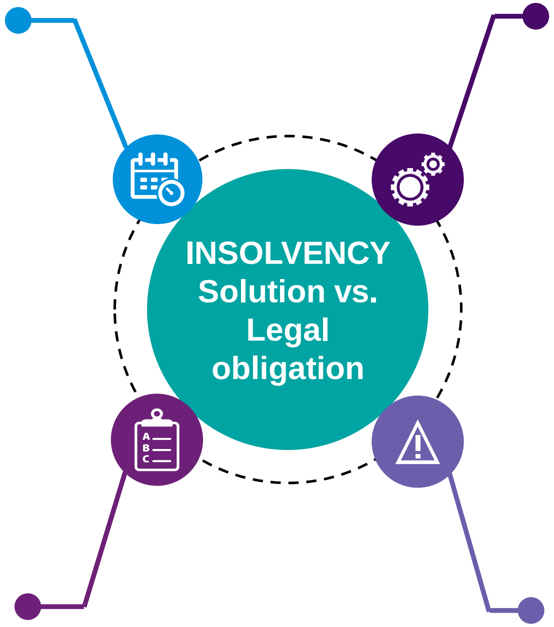
- The financial difficulty has not been analyzed and the conditions regarding the state of insolvency are fulfilled
- Within **30 days** from the date of installation of the state of insolvency, the company through the legal representatives has the obligation to submit the request to open its own insolvency

Insolvency conditions

- ***presumed***: a certain, liquid, demandable debt, unpaid for more than 60 days from maturity, with a value of more than 40,000 lei
- ***imminent***: the debtor will not be able to pay at maturity the due debts committed, with the funds available at the maturity date

Any exceptions?

- When, although the conditions of insolvency are met, the company is in **extrajudicial negotiations** conducted in good faith with its creditors (outside or in the context of preventive restructuring proceedings) ⇨ prevalence of insolvency proceedings over insolvency
- In **5 days** after the failure of the negotiations, the company through the legal representatives has the obligation to submit the request to open its insolvency
- Impediments to the debtor's application: budget claims> 50% of the total declared claims



What kind of solution is insolvency?

- compared to preventive restructuring:
  - **Alternative solution** to preventive restructuring
  - There are cases when, even if the conditions of insolvency are met, the opening of the insolvency preventive procedure prevails
  - Effect of failure of the preventive restructuring procedure
- insolvency as an independent procedure
  - Solution to continue the business in a reorganized form
  - Judicial reorganization is available to the good-faith company, without convictions for a series of intentional offenses (e.g. against property, corruption, service, false)
  - Effect of the failure of the judicial reorganization - involves the opening of bankruptcy, as the final phase of the procedure

Sanctions for not formulating the request to open own insolvency

- **Civil**, patrimonial liability
  - of persons responsible for **aggravating** the insolvency of the company, produced as a result of intentional acts performed during the suspicious period
- **Criminal** liability
  - of the legal representatives of the company **for failing to file the insolvency application** within a period **exceeding by more than 6 months** the period provided by law from the occurrence of the state of insolvency,

Q&A

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