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Restructuring across borders

Spain

Corporate restructuring and insolvency procedures | January 2022

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Contents

Introduction

Spanish insolvency proceedings are governed by Royal Legislative Decree 1/2020, of 5 May 2020, approving the recast Insolvency Law (the **Recast Insolvency Law**). The Recast Insolvency Law entered into force on 1 September 2020.

The Recast Insolvency Law was published on 6 May 2020 and is the outcome of a five-year work process followed since the Spanish Government received the mandate to prepare a consolidated text of Spanish Law 22/2003 of 9 July on Insolvency (*Ley Concursal* – the **Insolvency Law**). The Recast Insolvency Law was published almost a year after the Ministry of Justice submitted the draft bill prepared by its Codifying Commission to public consultation.

As stated in the Preamble to the Recast Insolvency Law, *"the history of the Insolvency Law is the history of its reforms"*, with more than 25 amendments since its enactment in 2003, especially after the onset of the financial crisis, from 2009 to 2015. The amendments resulted in a poorly systematised Insolvency Law, leading to strong debates among practitioners and scholars about its interpretation and application on numerous occasions. The successive reforms generated an unstable and hard-to-follow legal framework for a law that is crucial to developing and protecting business activities.

The Recast Insolvency Law emerges as a text that aims to clarify and harmonise insolvency regulations in Spain. In this sense, the different sections have been systematised into subjects for easier identification and interpretation.
Thus, for example, a new Part II has been included where all subjects relating to the so-called pre-insolvency law are grouped, including the notification of the opening of creditor negotiations (formerly provided for in section 5 bis of the Insolvency Law), refinancing agreements referred to in former section 71 bis and the Additional Provision Four of the Insolvency Law, and out-of-court settlements.

The approval of the Recast Insolvency Law is also a first step towards implementing European insolvency legislation, in particular Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on restructuring and insolvency (the **European Restructuring Directive**), which must take place before 17 July 2022 (the deadline was extended by a year following a request by the Spanish Government). The implementation of the European Restructuring Directive in Spain, together with a set of additional amendments (which are mainly focused on speeding up insolvency proceedings, fostering the transfer of valuable assets and further developing collective refinancing agreements on the basis of the existing English "scheme of arrangement" regime) are currently under discussion between all players involved and are expected to be passed in the coming months. The Spanish Government has already put forward a draft bill that is currently under discussion by the Spanish Parliament. Likewise, the Recast Insolvency Law has already adapted its references to the new European Regulations on insolvency proceedings and to the Spanish Law on International Legal Cooperation in Civil Matters (*Ley de Cooperación Jurídica Internacional*) concerning the recognition of rulings handed down in foreign legal proceedings.

However, as is usually the case in these consolidation processes, the initiatives of the Recast Insolvency Law have gone beyond the systematisation of sections and subjects but also several provisions have been expanded and amended, so as to clarify their contents and incorporate and adapt them to current insolvency case law. Therefore, a law that previously did not exceed 250 sections has now more than 750 sections.

As a summary, the Recast Insolvency Law must be understood as a necessary instrument for improving the restructuring of Spanish undertakings and sustaining the business fabric of Spain during any economic cycle. It is not a crisis relief law, but rather a legal foundation to solve and remedy insolvency situations, regardless of their cause.

Insolvency proceedings (concurso)

After the opening of insolvency proceedings, the first stage of the proceedings is what is referred to as the "common phase" (*fase común*). This generally lasts from the date of the opening of formal insolvency proceedings until the final list of creditors and assets is filed at court by the insolvency administrator. During the common phase of the insolvency proceedings, creditors are entitled to inform the insolvency administrator and discuss the value and ranking of their claims or the value ascribed to the debtor's assets in the insolvency administrator report.

The effects of the opening of the insolvency proceedings on interest and its ranking depends on whether or not it derives from non-secured or secured loans. In the case of non-secured loans, the accrual of interest is suspended from the date of the declaration of insolvency. In the case of secured loans, the effect of the insolvency over the accrual of secured interest varies depending on whether the interest is ordinary or default interest: while ordinary interest is to be considered as a contingent claim (*créditos contingentes*) in the communication of claims carried out by the creditors in accordance with the Supreme Court ruling dated 20 February 2019, the accrual of default interest is suspended from the date of declaration of insolvency in accordance with the Supreme Court ruling dated 11 April 2019.

After the common phase, the insolvency proceedings will enter into the "composition phase" (*fase de convenio*). If a composition is not possible (or not approved) then the insolvency proceedings will enter the liquidation phase (*fase de liquidación*).

The emphasis of the Recast Insolvency Law is on the survival of the insolvent debtor and therefore the law prefers a composition arrangement (*convenio*) with creditors. A *convenio* may include proposals for the release of debts or the deferral of payments, a combination of both, debt for equity or asset swaps, or the conversion of debts into other kinds of financial instruments. Depending on the number of creditors (by value) that support a *convenio*, the terms of the ***convenio*** that can be imposed on dissenting creditors will vary. In some circumstances, to ensure that certain measures bind dissenting creditors, an enhanced majority would be required.

Insolvency proceedings (concurso) (cont.)

If a *convenio* is not possible, the outcome of the insolvency proceedings will be liquidation. Even in the case of liquidation, the Recast Insolvency Law encourages the continuation of the business by way of a transfer of the business as a going concern where possible.

The Recast Insolvency Law clearly provides incentives for the rescue of companies that may be going through financial difficulties. It incorporates a mechanism to ensure that a request for the declaration of insolvency is filed in a timely manner. Further, a *convenio* that proposes a reduction of less than 20% of ordinary claims or a full repayment of all ordinary claims that are due and payable (*vencido y exigible*) in less than three years from the approval of the composition by the insolvency judge can be approved by a simple majority of ordinary creditors (by value) voting on the proposal. If the proposal exceeds both of these thresholds and includes a haircut of at least 33% of the outstanding claims, the so-called qualification section of the insolvency proceedings could be opened in order for the insolvency to be qualified as fortuitous or culpable. If the insolvency is culpable, the insolvent debtor (or its directors (both *de jure* and *de facto*)), liquidators or those with a general power of attorney (if it is a corporate entity) could be declared incapable of running any business for a period of two to 15 years. They may also be held to be personally liable for the culpable insolvency of the debtor (this liability would be with respect to the insolvent debtor's debts to the extent these remain unpaid after the proceeds of the liquidation have been applied towards discharging them).

The Recast Insolvency Law further provides incentives for reaching an agreement that satisfies the insolvent debtor and its main creditors. This can be seen in the provisions that encourage the insolvent debtor to file a proposal for a *convenio* together with its creditors as the most advisable way to obtain a creditors' composition. Thus, the Recast Insolvency Law advises the insolvent debtor to propose a *convenio* that can be accepted by its creditors and restrain creditors from making proposals that potentially would not be acceptable to the insolvent debtor (and to such other creditors that have adhered to the insolvent debtor's proposals) as the insolvent debtor may potentially request its liquidation.

Restructuring moratorium

The Recast Insolvency Law includes a pre-insolvency period in which the debtor can enter into an informal out-of-court restructuring with its creditors or negotiate the terms of a composition.

The debtor has a duty to request the opening of insolvency proceedings within two months from the date it became aware, or should have become aware, of its insolvency. However, in circumstances where the debtor has entered into negotiations with its creditors to agree either:

(i) a collective refinancing agreement meeting requirements set out under the Recast Insolvency Law (there are certain general requirements that need to be met by collective refinancing agreements and certain additional criteria that need to be met for collective refinancing agreements to be judicially sanctioned); or

(ii) an advance proposal for a composition between creditors (*propuesta anticipada de convenio*),

the debtor will be entitled to request from the court a three-month grace period in which to conclude these negotiations and to resolve its financial difficulties informally with its creditors. This was the so-called "5bis proceeding" (as it was previously established in section 5bis of the Insolvency Law). The purpose of the procedure is to afford the debtor a genuine opportunity to resolve its economic difficulties sooner rather than later and without it being subject to formal proceedings.

Filing for this pre-insolvency protection provides the debtor with a three-month period in which to negotiate with its creditors. During this three-month period, the debtor's obligation to file for voluntary insolvency (*concurso voluntario*) is suspended. If the debtor is solvent after the three months, it is not required to file for an insolvency declaration. However, if its difficulties cannot be resolved within the three-month period (ie the debtor is insolvent after the three months) the debtor must file a request for its declaration of insolvency (*solicitud de concurso*) no later than one month after the conclusion of the three-month period (in practical terms, the filing for this protection grants the debtor a four-month period to sort out its financial difficulties with its creditors).

No enforcement proceedings may be commenced in respect of any of the debtor's assets for a period of three months from the date the relevant notice is filed. During this period, any enforcement proceedings initiated before the filing will be suspended. However, public law claims (such as claims brought by or on behalf of the Spanish Tax Administration or the Labour Authorities) may still be brought in this period. Further, regardless of whether the relevant assets are deemed to be necessary for the continuation of the debtor's business, no individual financial creditor may initiate enforcement action in respect of those assets (and those already initiated will be suspended) if creditors holding 51% or more of the financial indebtedness (by value) of the debtor have agreed to negotiate a refinancing agreement with the debtor. If this is the case, financial creditors will generally agree with the debtor that they will not bring new or continue ongoing enforcement action against it while negotiations continue. Importantly, throughout the periods of restricted enforcement, secured creditors remain entitled to bring enforcement proceedings against any assets secured in their favour at any time although, if any such proceedings are initiated, they will be suspended immediately if they relate to any assets of the debtor necessary for the continuation of its business.

Court-sanctioned collective refinancing agreements

Court-sanctioned collective refinancing agreements are a loose adaptation of the English "scheme of arrangement". This restructuring instrument allows for the judicial sanction of refinancing agreements that have been supported by 51% or more (by value) of creditors holding financial liabilities of the company. In such cases the terms of the agreement will be binding on financial entities and creditors who supported the agreement. In this context, "financial creditors" includes holders of any kind of financial liability of the company, whether the holder is subject to financial supervision or not (indeed, some courts have held that any liabilities held by a financial creditor should be considered financial liabilities for the purposes of sanctioning a refinancing agreement).

Note that commercial creditors and public law liability creditors (such as trade creditors, the Spanish Tax Administration or the Labour Authorities) are specifically excluded for these purposes.

A collective refinancing agreement sanctioned by the court can eventually be binding on dissenting financial creditors, regardless of whether they are secured or unsecured. Whether dissenting financial creditors (either secured or unsecured) are bound by the provisions will depend on the respective percentage of secured or unsecured (as the case may be) financial creditors who voted in favour of the agreement.

Where creditors holding at least 60% of the financial liabilities (whether secured or unsecured) by value enter into the agreement, dissenting financial unsecured creditors will be bound by provisions concerning:

(i) any stay of payments for a period not longer than five years; and

(ii) any conversion of debt into profit participating loans (*préstamos participativos*) with a term no longer than five years.

The provisions described above will also bind all secured financial creditors provided that secured financial creditors holding at least 65% of the financial liabilities (whether secured or unsecured) by value support the agreement.

Where unsecured financial creditors holding at least 75% of the financial liabilities (whether secured or unsecured) by value enter into the agreement, dissenting financial unsecured creditors will be bound by provisions concerning:

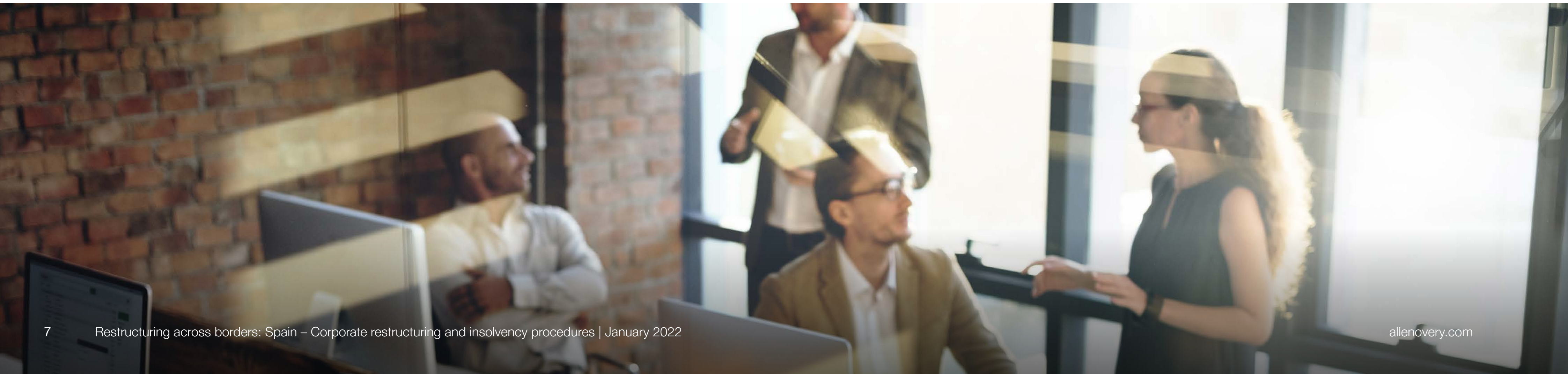
(i) any stay of payment for a period longer than five years, but no longer than ten years;

(ii) any discharge of debt;

(iii) any conversion of debt into equity;

(iv) any conversion of debt into profit participating loans (*préstamos participativos*), with a term longer than five years but not less than ten years; and

(v) any transfer of assets or rights to creditors in payment for the whole or any part of their debt.



Court-sanctioned collective refinancing agreements (cont.)

The provisions described above will also bind all secured financial creditors provided that secured financial creditors holding at least 80% of the financial liabilities (whether secured or unsecured) by value support the agreement.

Any dissenting creditor may challenge the agreement. Any challenge must be brought no later than 15 business days after the announcement of the court order that has sanctioned the agreement being published in the Spanish Official Gazette and must be on the grounds that:

(i) the required majority of creditors did not support the agreement; or

(ii) the sacrifice imposed by the agreement on dissenting creditors is disproportionate. According to the latest case law available, a 'disproportionate sacrifice' would be caused in those cases where the effects of the agreement are disproportionate when compared with its effects on other financial creditors (ie creditors of the same class should receive the same treatment, more senior creditors cannot suffer a higher haircut than more junior creditors or dissenting creditors cannot be placed in a worse situation than the one they would suffer if the refinancing were not approved (the so-called *cuota hipotética de liquidación*)).

If the debtor breaches any term of the refinancing agreement, secured creditors have the right to enforce their security and recover the full amount of their debt (ie without complying with any term of the refinancing agreement that seeks to impose a restriction on such recoveries).

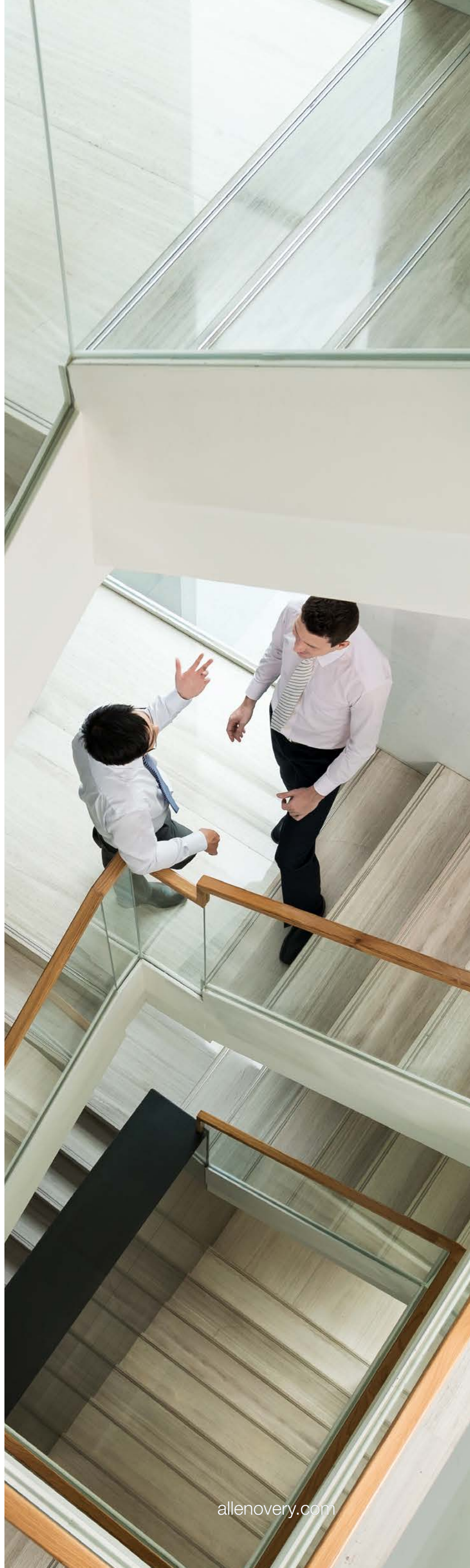
In relation to calculating the percentages referred to above, the following rules must be taken into account:

(i) financial liabilities held by entities or individuals specially related to the debtor (*personas especialmente relacionadas*) will not be taken into account, although such creditors could still be affected by the sanctioned agreement;

(ii) syndicated loans will be taken into account for the full value of the syndicated loan where at least 75% of the syndicate lenders (by value) vote in favour, unless the agreements between the syndicate lenders require a lower majority, which would prevail. Consequently, any unanimous consent provisions in the finance documents would be overridden;

(iii) any creditors who do not hold financial indebtedness, except those holding public debt, may agree to adhere voluntarily to the refinancing agreement (although they cannot be bound by the agreement otherwise and will not be taken into account when calculating whether the relevant majorities have been met); and

(iv) secured claims shall rank as secured up to the "value of the collateral" granted in their favour. For these purposes, the value of the collateral will be 90% of the fair value of the assets charged under the relevant security, after deducting the amount of outstanding debts that are secured by preferential *in rem* security over the same assets. If the value of the collateral is less than the credit, the excess will rank as unsecured financial liabilities in order to calculate the relevant majorities for the approval of a refinancing agreement.



Court-sanctioned collective refinancing agreements (cont.)

The following requirements must also be satisfied in order for a collective refinancing agreement to be judicially sanctioned:

(i) the agreement must significantly increase the available credit, or modify or extinguish the debtor's liabilities, by extending the maturity period or substituting its obligations by others, and be based on a viability plan that allows the debtor to continue with its activity in the short to medium term;

(ii) the auditor of the debtor must issue a certificate stating that the required majorities have been met; and

(iii) the agreement must be entered into before a public notary by means of a public deed.

The jurisdictional threshold to enable a debtor to use this restructuring instrument is that the debtor must have its centre of main interests in Spain.

The debtor or any of its creditors that have entered into the refinancing agreement can apply to the court for judicial sanction of the agreement (*homologación*). The application must be made to the Commercial Court in the jurisdiction where the debtor has its centre of main interests. Once filed, the corresponding court will review the application and will order the suspension of any enforcement proceedings against the debtor until the agreement is judicially approved. There is no requirement for the debtor to be insolvent or in financial difficulties in order to seek the judicial sanction of a refinancing agreement. However, one interpretation of the law is that, in order for the agreement to be capable of receiving judicial sanction, the refinancing must be necessary for the continuance of the company's activity in the short to medium term.

These proceedings are debtor-in-possession proceedings. The management will remain in control of the company and no independent individual will be appointed to supervise the implementation of the refinancing agreement.

Extra-judicial payment agreement

A further option has been introduced by Spanish Law 14/2013 of 27 September 2013 – the extra-judicial payment agreement (*acuerdo extrajudicial de pagos*). This proceeding allows for small businesses (or individuals) experiencing financial difficulties to negotiate and reach an agreement with creditors to fulfil certain payment obligations and avoid insolvency. This procedure is available to debtors who meet certain criteria as set out below.

The procedure can only be used by a company that has fewer than 50 creditors or whose debts are estimated in less than 5 million euros or whose assets valued in less than 5 million euros. Essentially, the extra-judicial payment agreement is designed for SMEs (and individuals).

An extra-judicial payment agreement is not available primarily where:

(i) criminal offences have occurred in relation to the development of the business activity (such as crimes against property, the use of false documents, defaults on taxes or non-compliance with labour rights);

(ii) accountancy duties have been breached;

(iii) the debtor has, in the preceding five years: (a) obtained the judicial sanction of a refinancing agreement; or (b) entered into an extra-judicial payment agreement with its creditors;

(iv) the debtor is negotiating a refinancing of its debt; or

(v) the debtor has already been declared insolvent by a court.

The extra-judicial payment agreement is initiated by the debtor with a request to the commercial registrar or before a notary public (as appropriate) to appoint an insolvency mediator (*mediador concursal*). The insolvency mediator must be appointed from an official list of mediators. Once the mediator is appointed, the commercial registrar or the public notary (as relevant) must notify the appointment of the mediator (and the fact that an extra-judicial payment agreement has been initiated) to the court that would be competent to declare the debtor insolvent (that is, the court of the place where the debtor's centre of main interests or corporate address is located).

The appointment of the insolvency mediator results in a negotiation process commencing between the debtor and its creditors, with the mediator facilitating the negotiations. While an insolvency mediator is appointed, the procedure is of a debtor-in-possession nature (although the debtor is only allowed to perform activities in the ordinary course of business). The fact that an insolvency mediator has been appointed will be published in the Public Insolvency Registry (*Registro Público Concursal*).

The initiation of the negotiation process suspends (and prevents the commencement of) any enforcement proceedings for a period of three months. The exception to this is that the moratorium does not prevent secured (or 'specially privileged') creditors from commencing proceedings in relation to any asset that is considered necessary for the continuation of the debtor's business. However, any such proceedings will be suspended immediately for the duration of the three-month moratorium. Enforcement proceedings in relation to any asset that is not deemed necessary for the continuation of the business can be initiated or continued, as the case may be.

Extra-judicial payment agreement (cont.)

The initiation of the negotiation process also suspends the duty of the debtor to file for the opening of insolvency proceedings for three months. If an agreement is not reached with creditors in this three-month period and the debtor is or remains insolvent, the debtor is given one month to apply for the opening of insolvency proceedings. The initiation of the negotiation process also prevents any creditor from filing for the opening of insolvency proceedings in respect of the debtor (for the same three-month period).

Within ten days of being appointed, the insolvency mediator must summon the debtor's creditors to a meeting. At least 20 days prior to this meeting taking place, the insolvency mediator will send to the creditors (with the debtor's consent) the debtor's planned proposal for the payment of its debts.

The proposal may contain one of the following measures:

(i) a stay of payments for a period of up to ten years;

(ii) discharge of the debt;

(iii) debt for equity swaps;

(iv) debt for asset swaps (provided that the relevant goods or assets are not necessary for the continuation of the debtor's business activity); or

(v) the conversion of debts into, among others, profit participating loans (*préstamos participativos*) for a period up to ten years.

An extra-judicial payment agreement may not affect debts owing to public institutions. In the ten calendar days following submission of the proposal, creditors are entitled to file alternative proposals or to propose amendments to the proposal circulated by the insolvency mediator.

In order for the extra-judicial payment plan to become effective, at least 60% of the creditors by value that would be affected by the agreement (or 75% by value depending on the measures that are purported to be imposed on dissenting creditors by the agreement) must support the plan. Secured creditors are included in the voting thresholds for the value of their claims that exceed the value of the secured creditor's security.

If the agreement is approved by the requisite vote of creditors, the agreement will be publicly announced in the Spanish Official Gazette (*Boletín Oficial del Estado*). If the agreement is not approved and the debtor is insolvent, the insolvency mediator must file a request with the relevant court that the debtor be declared insolvent.
The insolvency mediator must also request the debtor's declaration of insolvency if the agreement was approved but the debtor subsequently breached its terms.

Corporate liquidation

Corporate liquidation under the Spanish Companies Act (the **SCA**) is a separate procedure to the liquidation process but, as opposed to what would happen in an insolvency proceeding, in a corporate liquidation the debtor is considered to be able to fully settle all of its outstanding liabilities. Corporate liquidation is a standalone procedure for winding up the affairs of a company. It involves the sale of the company's assets and the payment of its debts and obligations, with a resulting distribution of any surplus to the company's shareholders and the company's ultimate dissolution.

Corporate liquidation is governed by:

(i) Chapter II, Title X of Royal Legislation Decree 1/2010, dated 2 July 2010, which approves the consolidated text of the SCA; and

(ii) the provisions of the by-laws of the company (provided that such provisions do not conflict with the provisions of the SCA – in which case the SCA takes priority).

Corporate liquidation is initiated by a decision of the company's shareholders upon the occurrence of a winding-up event. There is no insolvency test to be applied and neither is there an obligation on the shareholders to certify that the company is solvent. Upon the occurrence of a winding-up event (established under the by-laws of the company or by the SCA) the directors of the company must call a shareholders' meeting within two months from a winding-up event taking place. At this meeting the shareholders will either:

(i) adopt the resolution to initiate a corporate liquidation;

(ii) adopt a resolution to remedy the winding-up event; or

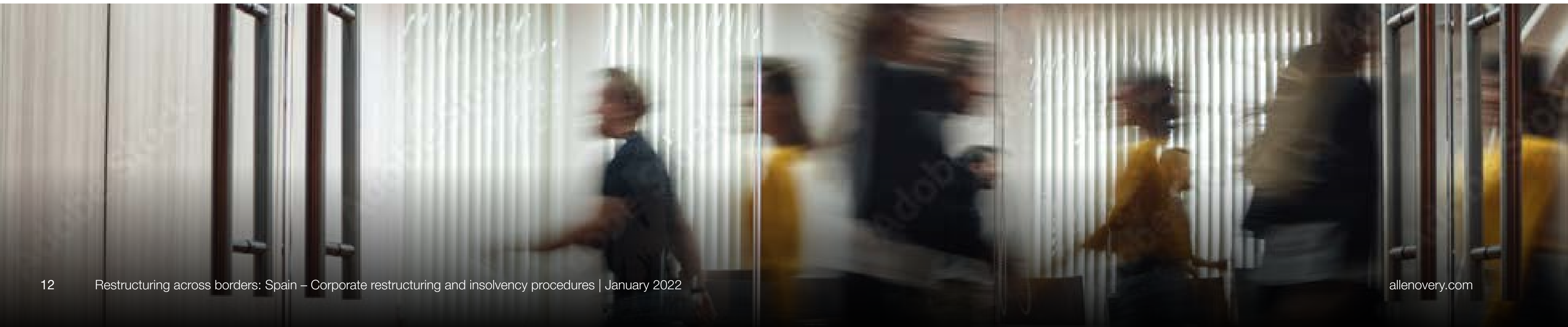
(iii) if the company is insolvent, initiate insolvency proceedings.

If the directors fail to call the meeting then any interested party may apply to the commercial court in the jurisdiction of the company's registered office to adopt the resolution to wind up the company.

Upon the commencement of corporate liquidation proceedings, liquidators are appointed to the company and the company's directors are dismissed from office (with their authority to represent the company being terminated from this point). The liquidators assume the duties of the directors, ensuring the integrity of the company's assets. Unless otherwise provided in the company's by-laws, each liquidator will represent the company individually and their power of representation will extend to all operations necessary for the liquidation of the company.

The company retains its legal personality in corporate liquidation proceedings and must add the expression "in liquidation" (*en liquidación*) to its name throughout the period of liquidation.

The liquidators are obliged to compile an inventory of the company's assets and to draft an initial balance sheet (as at the date of the opening of the corporate liquidation proceedings). If, upon investigation by the liquidators, the company is found to be insolvent the liquidators must commence insolvency proceedings.



Corporate liquidation (cont.)

The liquidators will realise all of the company's assets and provide for the payment of the company's liabilities (including pending obligations). A final balance sheet will be prepared together with a complete report on the actions taken by the liquidators and a proposal for distribution of the surplus assets among shareholders.

These documents will need to be approved at a shareholders' general meeting by a resolution to be adopted by the majority of votes cast validly or by a higher majority (if specifically required by the company's by-laws). If the documents are not approved by shareholders they will need to be redrafted by the liquidators for approval at a new shareholders' general meeting. The final liquidation balance sheet can be challenged by shareholders who did not vote in favour at the above meeting within two months of the documents being approved at the general meeting. If no challenge is brought within the required time period (or upon final judgment being given in relation to the claims) the surplus assets will be paid to the shareholders. The surplus assets must be distributed pursuant to the rules established in the company's by-laws or, in the absence of such rules, by the applicable legal provisions, which state that the liquidation quota for each shareholder must be proportional to their participation in the share capital of the company.

The public deed of liquidation must be registered with the Mercantile Registry, which will issue a note confirming that all entries relating to the company have been cancelled and the company will cease to exist. The liquidators must deposit all of the company's books and documents with the Mercantile Registry.

The liquidators are liable to shareholders and creditors for damages incurred due to any intentional misconduct or negligence in the performance of their duties.

European Insolvency Regulation

The EU Regulation on Insolvency Proceedings 2015 (Regulation (EU) 2015/848) (the **Recast Regulation**) applies to all proceedings opened on or after 26 June 2017. Its predecessor, the EC Regulation on Insolvency Proceedings 2000 (Regulation (EC) 1346/2000) (the **Original Regulation**), continues to apply to all proceedings opened before 26 June 2017. One of the key changes in the Recast Regulation is that it brings into scope certain pre-insolvency "rescue" proceedings and these are now listed alongside the traditional insolvency procedures in Annex A to the Recast Regulation. The Recast Regulation retains the split between main and secondary/territorial proceedings but secondary proceedings are no longer restricted to a separate list of winding-up proceedings – secondary proceedings can now be any of those listed in Annex A. By contrast, the Original Regulation listed main proceedings in Annex A and secondary proceedings (which were confined to terminal proceedings) in Annex B.

Insolvency (*concurso*) was available as a main and secondary proceeding under the Original Regulation. This was listed as both a main and secondary proceeding because it is the single gateway into either a liquidation (*fase de liquidación del concurso*) or a composition with creditors (*convenio*). However, on the basis that secondary proceedings must be limited to winding-up proceedings, it may be that any secondary proceedings would be limited to the liquidation element of the insolvency proceedings.

On top of the foregoing, certain amendments have been included in the Recast Regulation as regards Spanish insolvency proceedings. In this respect, aside from insolvency proceedings, Annex A of the Recast Regulation also includes:

(i) proceedings for judicial sanction (*homologación*) of refinancing agreements (this should cover court-sanctioned collective refinancing agreements),

(ii) proceedings for the approval of out-of-court refinancing agreements (*acuerdos extrajudiciales de pago*), and

(iii) the pre-insolvency protection foreseen under the Recast Insolvency Law (and formerly under section 5bis of the Insolvency Law) in which a debtor negotiates with its creditor in order to seek a solution to overcome its financial difficulties.

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If you require advice on any of the matters raised in this document, please contact any of our partners or your usual contact at Allen & Overy, or email **rab@allenovery.com**

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