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14 April 2003

REGULATION NO. 2003/7

ON THE PROMULGATION OF THE LAW ADOPTED BY THE ASSEMBLY OF KOSOVO ON LIQUIDATION AND REORGANIZATION OF LEGAL PERSONS IN BANKRUPTCY

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

In conformity with sections 9.1.44 and 9.1.45 of the Constitutional Framework for Provisional Self-Government (UNMIK Regulation No. 2001/9),

Taking into account a communication from the President of the Assembly of Kosovo, dated 25 March 2003, concerning the Law on Liquidation and Reorganization of Legal Persons in Bankruptcy adopted by the Assembly of Kosovo on 13 March 2003,

Noting several textual deficiencies and inconsistencies in the Law which do not present legal difficulties preventing promulgation but which must nevertheless be reconciled for effective implementation,

Hereby promulgates effective as of the date of signature the Law on Liquidation and Reorganization of Legal Persons in Bankruptcy adopted by the Assembly of Kosovo (Law No. 2003/4) attached to the present Regulation.

The Law shall enter into force ninety (90) days after the date of promulgation.

Signed on this 14th day of April 2003.

Michael Steiner
Special Representative of the Secretary-General

PROVISIONAL INSTITUTIONS OF SELF-GOVERNMENT

THE ASSEMBLY OF KOSOVO

LAW NO. 2003/4

ON LIQUIDATION AND REORGANIZATION OF LEGAL PERSONS IN BANKRUPTCY

On the basis of UNMIK Regulation No. 2001/19 of 15 May 2001 on Constitutional Framework for Provisional Self-Government in Kosovo, especially Articles 5.1, 5.7. 9.1.26 (a), 9.3.3,11.2;

In order to promote the development of a sound, free market economy in Kosovo by ensuring that legal provisions and other legal acts that regulate the procedures of liquidation and reorganization of legal persons in bankruptcy shall be defined and established in conformity with me best advanced experiences;

Hereby adopts the following,

CHAPTER I: GENERAL PROVISIONS

Article 1
SCOPE

1.1 This law defines the conditions and procedures for the liquidation or reorganization of legal persons in bankruptcy and determines the rights and duties of the parties participating or affected by such proceedings.

1.2 This law governs the bankruptcy legal persons, which includes general partnership, limited partnership, joint stock companies, and limited liability companies.

1.3 This law does not apply to private businesses, insurance companies, financial institutions, pension providers, and the enterprises in public and social ownership which are not yet transformed into legal entities.

Article 2
DEFINITIONS

Whenever used in this law, me following words and phrases shall have the following meanings, unless the context clearly requires otherwise or unless this law clearly states otherwise:

"Bankruptcy case" means a case initiated pursuant to this law.

"Bankruptcy estate" means all of die property of the debtor as described in Article 27.

"Case acceptance date" means the date on which the petition is accepted.

"Claims bar date" means the last date on which claims may be submitted, which is sixty (60) days after me case acceptance date.

"Court" shall mean the District Economic court with jurisdiction over a bankruptcy case under Article 5 of this law.

"Implementing rules" mean rules adopted under Article 3 to establish bankruptcy procedures under this law and to facilitate implementation of this law.

"Legal person" means a general partnership, limited partnership, joint stock company or limited liability company.

"Registered lien" means a claim based on law, contract or judicial decision, registered in the appropriate pledge or property rights registry that gives the creditor the right to resort to such property for the payment of a debt secured by such lien.

"Petition submission date" means the date a petition under this law was filed.

"Possessory lien" means a claim based on the possession of the debtor's property by means of a contract of security, which gives the claimant the right to effect collection of the debt out of the value of the property.

"Proof of claim" means the written basis for a claim against the debtor. "Secured claim" shall refer to a claim secured by a lien.

"Secured creditor" shall refer to a. creditor who has a secured claim.

"Reasonable value" means an amount that a careful businessman would consider as a reasonable commercial value, taking into consideration the nature and conditions of the transferred property as well as the business conditions and those of the market as of the time of transfer.

"Insider" means:

1. A person who is owner of twenty percent or more of me shared capital of the debtor, or who possesses a clear controlling interest in the debtor,

2. A person who is a member of the management or governing body of the debtor or who is in the position of substantial control of the debtor;

3. A person with access to information which in general is not available to the general public, concerning the decision making and financial condition of the debtor, and

4. An immediate family member or close relative of those mentioned in paragraph (1), (2), and (3) of this paragraph.

Article 3
IMPLEMENTING RULES

Within forty-five (45) days of this law's promulgation, the Government of Kosovo shall issue implementing rules.

Article 4
ELIGIBLE DEBTORS

Any legal person may be a debtor under this law, except:

(a) A government agency;

(b) A "Socially-owned enterprise" or "Publicly-owned enterprise," as defined in UNMIK Regulation 2002/12 "On the Establishment of the Kosovo Trust Agency";

(c) A "Pensions provider" as defined in UNMIK Regulation No. 2001/35-"On Pensions in Kosovo";

(d) An "Insurance company" or "Insurance intermediary" as defined in UNMIK Regulation No. 2001/25 "On Licensing, Supervision and Regulation of Insurance Companies and Insurance Intermediaries"; or

(e) A "Financial institution" as defined in UNMIK Regulation No. 2001/24 "Amending UNMIK Regulation No. 1999/20 On the Banking and Payments Authority of Kosovo".

Article 5
JURISDICTION

Bankruptcy cases shall be heard by the District Economic court with jurisdiction in the geographic area in which the debtor's principal place of business is located.

Article 6
APPEALS

6.1 Only final decisions of the court relating to matters critical to me administration of the bankruptcy case are subject to appeal.

6.2 Unless the Supreme Court orders otherwise, the appeal of a decision under this law shall not stay or otherwise affect the administration of the case, and the court shall continue to administer the case.

CHAPTER II: INITIATION OF A BANKRUPTCY C ASE

Article 7
BASES FOR INITIATION OF A BANKRUPTCY CASE

7.1 A bankruptcy case is initiated by the submission of a written petition to the court The submission of the petition invokes the jurisdiction of me court under this law.

7.2 A petition may be submitted by the debtor, a creditor, or a group of creditors.

7.3 The debtor may submit a petition only:

(a) With approval of its board of directors or governing body in accordance with its charter, founding documents, or partnership agreement; and

(b) If the debtor meets the following criteria:

(1) The debtor has failed to pay a debt that is at least sixty (60) days overdue;

(2) The total amount of the overdue debt exceeds five thousand (5000) Euros; and

(3) The debtor is generally not paying its debts as they become due.

7.4 A creditor or a group of creditors may submit a petition to commence a case under the present law against an eligible debtor when:

(a) The debtor has failed to pay a debt due to the petitioning creditor(s) that is at least sixty (60) days overdue;

(b) The total amount of the overdue debt of each petitioning creditor exceeds two thousand (2,000) Euros in amount;

(c) The debt is not conditional or subject to a bona fide dispute; and

(d) The debtor is generally not paying its debts as they become due.

7.5 The court may presume that the debtor is not paying its debts as they come due when a creditor presents competent evidence proving that its particular debt has not been paid when due. This presumption may be rebutted by a showing of evidence to the contrary.

7.6 A petition submitted by more than one (1) creditor may not be withdrawn unless all the petitioning creditors consent. The petition may be withdrawn only before case acceptance and only if the court determines that withdrawal will not harm the estate.

Article 8
FORM AND CONTENT OF A PETITION

A petition shall be presented in written form. Its required form and contents shall be determined by implementing rules.

Article 9
DOCUMENTS REQUIRED WITH A DEBTOR'S PETIT ION

A petition by a debtor shall be accompanied by a statement that the submission has been approved according to Article 7.3, paragraph (a), and the debtor is insolvent according to the criteria, in Article 7.3 paragraph (b). Implementing rules may specify other documents that must accompany a debtor's petition.

Article 10
NOTIFICATION OF REGISTRIES

The court shall notify the business registry and the pledge registry of the opening and the closing of a case. The procedures for providing such notification shall be defined by implementing rules.

Article 11
ACCEPTANCE OF A PETITION

11.1 The court shall register a petition immediately after its receipt. The date of registration is the "petition submission date." The court shall register the petition irrespective of any defect and shall indicate die time and date of registration on its face.

11.2 The court shall issue a decision accepting the petition for purposes of initiating the case. The date when the court issues the decision shall be the case acceptance date.

(a) In me case of a debtor's petition, a decision shall be issued when:

(1) The petition complies with all the requirements of this law; or

(2) The petitioner has remedied any legal defects and submitted all required documents within a time limit specified by the court; and

(b) In the case of a creditor's petition, a decision shall be issued when:

(1) The deadline for the debtor to oppose the petition has expired and no objection has been received; or

(2) The court has issued a decision rejecting me debtor's objection.

11.3 If the petitioner has failed to provide documents required under Articles 8 and 9 of this law and the implementing rules, or has failed to comply with requirements of relevant laws or regulations, the court shall issue a decision no later than three (3) days after me petition submission date specifying the defect(s) and requiring the petitioner to cure them within seven (7) days of the petition submission date.

11.4 If the petitioner does not cure all defects within seven (7) days of the petition submission date, the court shall reject me petition unless, upon application of the petitioner made prior to the expiration of the initial seven (7) days, the court grants additional time due -

to the complexity of the case or other substantial reasons. In such case, the additional time granted shall not exceed five (5) days.

Article 12
OPPOSITION TO A PETITION

12.1 The court shall send a notice and copy of the petition registered by a creditor to the debtor no later than one (1) day after the registration of the petition.

12.2 The debtor may oppose a-petition by submitting to the court a written notice of opposition no later than five (5) days after the debtor's receipt of the notice of registration of a petition.

12.3 If the debtor submits a timely notice of opposition to the petition, the court shall hold a hearing no later than seven (7) days after the filing to examine the evidence presented by the parties. The court shall notify all interested parties of the day, hour, and place of the hearing at least three (3) days prior to the hearing date.

12.4 Following a hearing pursuant to Article 12, paragraph 3 of this law, the court shall issue a decision rejecting the petition if:

(a) The court lacks jurisdiction;

(b) One of the requirements of Articles 4 or 7 of this law have not been satisfied;

(c) One of the requirements of the implementing rules under Articles 8 or 9 of this law have not been satisfied and the defect(s) have not been cured pursuant to Article 11 of this law;

(d) The debtor is already subject to bankruptcy proceedings;

(e) The petitioning creditor's claim or claims have been completely satisfied as of the time of the court hearing and sufficient proof of satisfaction exists;

(f) The petitioner lacks the capacity to act; or

(g) The petitioner has not paid filing fees required by applicable law.

12.5 If the petition is rejected, the court shall issue a decision stating the grounds for rejection and citing relevant Articles of this law. Copies of the decision shall be sent to the petitioner and to the debtor.

12.6 The court shall issue its decision to accept or reject me petition no later than five (5) days after the hearing.

Article 13
SANCTIONS FOR IMPROPER PETITION

13.1 Where the court finds that a creditor petition has been submitted for an improper purpose, the court may order the petitioner to pay damages to the debtor.

13.2 Where the court finds mat a debtor's petition has been filed for an improper purpose or in a manner intended to deceive, defraud or subvert the court or creditors, the court may fine the debtor or individual members of the debtor's management or governing body according to Chapter 11 of this law.

Article 14
CONSEQUENCES OF CASE ACCEPTANCE

14.1 Upon case acceptance, the court shall;

(a) Appoint an administrator pursuant to Article 17 of this law;

(b) Set the time, date and place of the first meeting of creditors no later than fifteen (15) days after the case acceptance date; and

(c) Issue a notice of the administrator's appointment and first meeting of creditors in a manner established by implementing rules.

14.2 The court may set a preliminary court hearing ten (10) days after the scheduled creditor's meeting to determine the case status and the results of the meeting of creditors. The debtor, or his authorized representative, may be ordered to attend.

Article 15
DEBTOR'S STATEMENT OF INTENTION TO REORGANIZE

15.1 In cases initiated by whoever, either a creditor or a debtor, a debtor who intends to reorganize shall submit a statement of intention to reorganize to the court no later than twenty (20) days after the petition submission date. In a case initiated by a creditor, a debtor who intends to reorganize shall submit a statement of intention to reorganize no later than ten (10) days after the case acceptance date.

15.2 If the administrator believes that a reorganization is feasible, but the debtor has not filed a timely statement of intention to reorganize, the administrator may file a preliminary statement of intention to reorganize no later than five (5) days after the date set for filing the debtor's statement of intention to reorganize. A final statement of intention to reorganize shall be filed by the administrator no later than fifteen (15) days following the conclusion of the first meeting of creditors.

15.3 A debtor or administrator filing a statement of intention to reorganize shall submit a plan of reorganization that is consistent with the requirements of Chapter 8 of this law.

15.4 In the absence of a timely statement of intention to reorganize filed by either the debtor or the administrator, liquidation proceedings shall be commenced in accordance with Chapter 9 of this law.

15.5 An administrator duly appointed under this law shall remain in place irrespective of the debtors, stated intention to reorganize. The administrator may engage employees of the debtor, including members of management, to continue working for the debtor subject to the administrator's supervision.

15.6 No objection shall be allowed by any party to the filing by the administrator of either a preliminary or final statement of intention to reorganize.

Article 16
OPPOSITION TO DEBTOR'S STATEMENT OF INTENTION TO REORGANIZE

16.1 Despite tiling a statement of intention to reorganize the proceedings shall be converted to liquidation under Chapter 9 of this law if the debtor is incapable of obtaining a confirmation of a plan of reorganization or is otherwise unable to reorganize.

16.2 The determination in Article 16.1 of this law shall commence upon submission of a written objection to the debtor's statement or intention to reorganize no later than fifteen (15) days after its submission. Such opposition may be submitted by the administrator, any creditor, group of creditors, or other interested party.

16.3 The procedures for deciding upon an opposition shall be established by implementing rules.

CHAPTER III: THE ADMINISTRATOR AND THE CREDITORS' COMMITTEE

Article 17
APPOINTMENT OF THE ADMINISTRATOR

17.1 No later than two (2) days after the case acceptance date, the court shall appoint an administrator.

17.2 The court may, on its own initiative or at the request of me petitioning party, appoint an interim administrator prior to the case acceptance date, where there is an urgent need to protect assets from damage or unauthorized dispositions or where other circumstances exist requiring urgent appointment.

17.3 Creditors holding sixty percent (60%) or more of the total outstanding debt of the debtor, whether secured or unsecured, may, at any time, submit a written request to the court to replace the original administrator with an administrator of their own selection, provided that the administrator otherwise fulfills the requirements of set forth in Article 18 of this law. Where such a request is validly made and the requirements met the court shall appoint the selected administrator no later than two (2) days after the submission of the request.

Article 18
QUALIFICATICONS OF T HE ADMINISTRATOR

The qualifications of the administrator shall ensure that he or she is a competent, honest individual without a conflict of interest. Particular qualifications and licensing procedures may be established by implementing rules.

Article 19
ADMINISTRATOR COMPEN SATIO N AND EXPENSES

19.1 The administrator's compensation and expenses shall be paid from the cash resources of the debtor or from the proceeds of the sale of the debtor's property, with priority as established by Article 66 of this law.

19.2 In cases where there are few or no assets available for the payment of such compensation and expenses, the administrator shall be paid a set fee from a specially designated fund to be established by implementing rules.

19.3 The amount of compensation shall be sufficient to attract competent individuals to serve as administrators. The procedures for determining the administrator's compensation and the timing of its disbursement shall be established by implementing rules.

Article 20
AUTHORITY OF THE ADMINISTRATOR

20.1 In addition to rights established in other provisions of this law and the implementing rules, the administrator shall have me right to:

(a) Take immediate possession of the property of the debtor;

(b) Call creditor meetings and preside over such meetings;

(c) Initiate and continue legal and administrative proceedings that are related to enforcement of the debtor's rights;

(d) Serve as the official authorized representative of the debtor's estate;

(e) With court approval, hire and supervise the work of employees, subordinates and experts necessary for the proper administration of the case;

(f) Close the debtor's bank accounts and open a special insolvency account in a court-approved bank;

(g) Make payment to creditors on account of approved claims; and

(h) Compel the debtor or designated representatives of the debtor's management to appear at and assist in taking an inventory of the debtor's property.

20.2 The administrator shall be obligated to maximize the value of the estate, maintain and protect the estate, affect a fair and speedy resolution of die case, and, where appropriate, manage the business of the estate. Specific duties of the administrator may be established by implementing rules.

Article 21
REPORT OF CAUSES

21.1 No later than thirty (30) days after his appointment, tile administrator shall submit to the court a brief report. The report shall:

(a) Describe the primary causes or circumstances leading to the debtor's financial difficulty; and

(b) State whether the administrator believes that there is a reasonable possibility for a successful reorganization.

21.2 The report shall be of an informational nature and its conclusions shall not have any legal effect. The report shall be made available for inspection by me debtor, creditors, and other interested parties.

Article 22
ADMINISTRATOR STATUS, LIABILITY, AND BOND

22.1 The administrator shall be an independent party, appointed by the court, who can be sued in his name. The administrator shall exercise reasonable care and diligence in the timely performance of his duties.

22.2 The administrator shall not be held personally liable for losses incurred by a creditor, me debtor, any shareholder or partner, the estate, or any other party for consequences or damages flowing from decisions made or actions taken or not taken within the scope of his duties if he has exercised ordinary care and diligence in the timely performance of those duties.

22.3 No later than two (2) days after his appointment, the administrator shall deposit an amount with the court or provide a bond in the same amount to serve as a guarantee of proper performance. The amount of die deposit or bond shall be determined by implementing rules. The deposit shall be returned or the bond cancelled upon the satisfactory completion of the administrator's duties.

Article 23
REPORTING

The administrator shall submit a monthly report on his activities to the court. The minimum contents of the report shall be established by implementing rules.

Article 24
OPPOSITION. APPEAL, AND REQUEST TO COMPEL

24.1 The debtor, a creditor, or any legal or physical person who presents a legal interest may submit a written opposition to any action of the administrator, except for actions taken in the ordinary course of the debtor's business, or may submit a request to compel the performance of any action required of the administrator under this law.

24.2 The procedures for deciding upon an opposition or request to compel shall be established by implementing rules.

Article 25
REMOVAL OF ME ADMINISTRATOR

25.1 The court on its own initiative, or where adequate cause is shown at the written request of the debtor or any creditor or the administrator himself, may dismiss the administrator and appoint a new administrator. The discharged administrator shall cooperate with the new administrator in turning over records, transferring accounts, and other aspects of the transition.

25.2 The criteria for determining when adequate cause for dismissal exists may be established through implementing rules.

Article 26
CREDITORS' COMMITTEE

26.1 A Creditors' Committee shall include at least three (3) and not more than five (5) creditors from among those with the largest unsecured or partially secured claims and who are willing to serve. If fewer than three (3) such creditors are willing to serve, then no committee shall be formed.

26.2 The rights and duties of the creditors' committee are:

(a) To receive a copy of the monthly report of me administrator at the same time as the court;

(b) To receive notice of motions and other requests for court action that are likely to substantially affect the rights of creditors;

(c) To summon the debtor or its representatives to answer questions concerning the debtor,

(d) To initiate an action to void a transaction under Article 50 of this law;

(e) To share access to information it has obtained with creditors who are not members of the committee; and

(f) Other rights and duties either explicitly or implicitly provided for by this law or legislation issued according to it.

26.3 The procedures for meetings of creditors or of a Creditors' Committee shall be established by implementing rules.

CHAPTER IV: PROPERTY OF THE ESTATE

Article 27
PROPERTY OF THE ESTATE

27.1 The registration of a petition creates a bankruptcy estate consisting of all property of the debtor as of the petition submission date, as well as all property collected by the administrator on the debtor's behalf during the course of the proceedings or through the ordinary course of business. Such property shall include but not be limited to:

(a) All movable, immovable, tangible or intangible property, wherever located, whether in the custody of the debtor or third parties;

(b) Claims and legal actions of me debtor against third persons;

(c) Proceeds of actions recovering fraudulent or preferential transfers;

(d) Inheritance and other funds received within six (6) months of the petition submission date;

(e) Rent, income and proceeds generated from the use of the property of the estate or operation of the debtor's business; and

(f) Contractual rights, licenses, or other rights created or granted by regulation.

27.2 Notwithstanding anything to the contrary in paragraph 1 of this Article, the bankruptcy estate shall not include "pension assets" or "Vested rights" as defined in UNMIK Regulation No. 2001/35 "On Pensions in Kosovo."

Article 28
RESTRICTIONS ON THE TRANSFER OF PROPERTY

28.1 From the petition submission date until the appointment of the administrator the sale, disposal, alienation, transfer or rental of any property of the estate, in whole or in part, including any transfers for the satisfaction of existing obligations, or creation of pledges or mortgages against the debtor's property, is prohibited without a court decision.

28.2 From and after the appointment of the administrator, the sale, disposal, alienation, transfer or rental of property of the estate, in whole or in part, including any transfers for the satisfaction of existing obligations, or creation of pledges or mortgages against property of the estate, is prohibited without a court decision, except for the sale or transfer of property in the ordinary course of operation of the business where the business continues to function.

Article 29
DISTRAINT SEALING, AND SEIZURE OF ME DEBTOR'S PROPERTY

29.1 Immediately after his appointment by the court, the administrator shall take all necessary steps to locate, distrain, seal, safeguard and protect the property of the estate. The administrator shall take reasonable measures required for the maintenance of the property of the estate.

29.2 The administrator is authorized to sell perishable goods in accordance with the procedures set form in Article 62, paragraph (a) of this law.

29.3 The administrator is authorized to sell property requiring significant maintenance costs in accordance with the procedures set forth in Article 62, paragraph (b) of this law.

29.4 Where property of the estate is in the custody .of a third party, the administrator shall issue a notice of distraint to the party possessing the property, and, where deemed necessary, issue a request for turnover of custody. The administrator may, in his discretion, temporarily leave the property with the third party if the property is physically safe and it is prudent to do so.

29.5 Where property of me estate is located outside of Kosovo, the administrator shall apply to the appropriate courts with a notice of distraint, seal or seizure of such property.

Article 30
INVENTORY OF THE ESTATE'S PROPERTY

The administrator shall conduct and tabulate the physical inventory of the property no later than forty five (45) days after his appointment. The court may, at the request of the administrator, extend this deadline in unusually large or complex cases or where other appropriate circumstances exist. The procedures for conducting such an inventory shall be established by implementing rules.

Article 31
PROPERTY IN TRANSIT

If goods sold to the debtor are in transit when the petition is filed, and the debtor does not yet own the goods, the seller may seek return of the goods, on condition that the seller bear all the expenses associated with the return and promptly return any advance payment made by the debtor. Alternatively, the administrator may take delivery of the goods, in which case the estate shall pay the total amount due.

Article 32
AGENCY AND PROPERTY HELD ON BEHALF OF THIRD PERSONS

32.1 Where the debtor is the agent or broker of a third party authorized to receive or sell property belonging to the third party, that party may rescind the agency and seek return of the property held in the debtor's custody by submitting a written request to the administrator.

32.2 Where at the time of the request for the return of the property it is impossible to return all or part of die property held in the debtor's custody on behalf of a third party, the third party is entitled to submit a claim at the contract price. Where it is impossible to determine the contractual price, sales price as of the petition submission date shall govern.

CHAPTER V: ADMINISTRATIVE POWERS

Article 33
MORATORIUM AND SUSPENSION OF ALL ACTIONS

33.1 As of the petition submission date, all actions, proceedings or acts of any kind aimed at satisfying the claims against the debtor shall be suspended, including:

(a) Any acts, including judicial proceedings, to collect or recover a claim for debts, taxes, penalties or obligations of any kind arising prior to the petition submission date except through the claims submission procedure defined under Chapter 9 of this law;

(b) Any acts to create, modify, increase, perfect, register or enforce a mortgage or pledge in the property of the estate or against the debtor, and

(c) Any acts to realize, seize, or sell any pledged or mortgaged property of the debtor's estate or to exercise control over property of the estate.

33.2 The moratorium shall not apply to:

(a) Actions directed against third parties, or non-debtor guarantors;

(b) Actions directed against the general partners, where the debtor is a general or limited partnership and where the proceeding is not directed against property included within the debtor's estate;

(c) Setoff pursuant to Article 49 of this law;

(d) Criminal proceedings against the debtor, its governing bodies, officer or management;

(e) Regulatory proceedings or actions with regard to the prevention or remediation of violations of health, safety, and the environment; or

(f) Inspections and requests for inspection made by holders of registered mortgages or perfected pledges.

Article 34
ADEQUATE PROTECTION

34.1 The holder of a registered mortgage of immovable property or perfected of movable property subject to the moratorium is entitled to adequate protection of its secured interest in the estate's property in order to maintain the condition and value of such property as it was as of the petition submission date.

34.2 Where the property subject to a registered mortgage or perfected pledge is not adequately protected, the secured creditor may submit a written request to the court for a decision granting substitute adequate protection. Such a request may be combined with a request for suspension of the moratorium pursuant to Article 36 of this law.

34.3 The court shall issue a ruling on the request for adequate protection no later man twenty (20) days after its submission, in the absence of which the moratorium shall cease to the extent necessary for the creditor to exercise its rights in the secured property.

34.4 The court may order me following relief as adequate protection:

(a) Compensation by means of regular cash payments to the secured creditor equal to the decline in property value or compensation for actual or anticipated losses;

(b) Granting of additional secured property sufficient to compensate for the decline in property value or compensation for losses;

(c) Delivery of proceeds generated from sale, use, or alienation of the collateral to the secured creditor, to die extent of its secured claim;

(d) Repair, maintenance, insurance coverage or physical security, as needed to remedy the problem; or

(e) Other protective or compensatory measures as the court sees fit to protect the secured creditor's property value.

Article 35
SUSPENSION OF THE MORATORIUM

35.1 The court may suspend a moratorium upon the written request of a secured creditor where:

(a) The interest of the secured creditor cannot be adequately protected; or

(b) The value of the property is less than the combined amount of the secured interests, pledges or liens and the subject property is not critical to a reorganization.

35.2 The court shall issue a ruling on the request for suspension of the moratorium no later than twenty (20) days after its submission, in the absence of which the moratorium shall cease to the extent necessary for the creditor to exercise its rights in the secured property.

Article 36
SUSPENSION OF LIMITATION PERIODS

The running of any limitation periods for legal actions against the debtor that were prohibited by the moratorium shall be suspended during the operation of the moratorium. The running of such periods of limitations shall resume when the moratorium no longer applies.

Article 37
PUBLIC UTILITIES

37.1 A utility company or other provider of utility services including, without limitation, a company that supplies electricity, natural gas, water, or telephone service, may not alter, refuse or discontinue such service to the estate-because of the bankruptcy proceedings or because the debtor has failed to pay for services prior to the bankruptcy proceedings, but the administrator shall make payment for utility services provided after the petition submission date.

37.2 Upon request of the utility company, the debtor shall place a security deposit in a commercial bank as a condition to the duty of the utility company to continue to provide services during the bankruptcy proceedings. Any such deposit shall not be required in an amount greater than the cost of services provided to the debtor during the month immediately prior to the petition submission date

Article 38
DEBTOR'S DUTY TO COOPERATE

The debtor shall cooperate with the administrator and shall provide access to all documents and information concerning the debtor's activity and resources, including all information regarding all disbursements and transfers or alienation of property made within one (1) year prior to the petition submission date and of all payments, transfers or business dealings made with the members of the debtor’s management, governing body, family members, or other insiders.

Article 39
TREATMENT OF UNPERFORMED CONTRACTS

39.1 The administrator may reject or affirm any contract, including those for the lease of real estate, where both parties have not performed the contract.

39.2 The procedures for rejecting or affirming contracts shall be established by implementing rules.

Article 40
PROVISION OF PROFESSIONAL OR PERSONAL SERVICES

40.1 The administrator may take a decision to conclude a contract under which a debtor is obliged to provide personal services requiring professional qualification, unique skill or talent stipulated by law only where the other party to the contract agrees in writing to accept substituted performance from the administrator or an authorized representative, and where the latter possesses all necessary and appropriate professional qualifications for the performance of such services.

40.2 Where the administrator fails to perform the services set forth in Article 40.1 or where the other party to the contract does not agree to accept substituted performance, the other party to the contract may submit a claim, for damages.

Article 41
OBTAINING CREDIT

41.1 Where the debtor enterprise continues to operate and there is an intent to reorganize, the administrator may incur unsecured debt in the ordinary course of the debtor's business operations without obtaining court approval. Such credit shall be an administrative expense under Article 66, paragraph (b) (4) of this law.

41.2 The administrator may obtain credit outside the ordinary course of the debtor's business operations provided that me credit in Article 41, paragraph 1 of this law is unavailable and creditors have given adequate consent for such an arrangement The procedures of court approval of such credit arrangements and the priority status of such credits shall be established by implementing rules.

CHAPTER VI: CLAIM SUBMISSION

Article 42
CLAIM REGISTRATION

42.1 All claims submitted for inclusion in the bankruptcy proceeding are governed by this Article and implementing rules.

42.2 Each proof of claim shall be submitted to the court in written form no later than sixty (60) days after the case acceptance date.

42.3 Claims previously filed pursuant to an official claims registration process for enterprises shall be deemed to be valid if the information contained in the filing substantially conforms to the information required in this law or any implementing rules. Such claimants may update their claims by a filing pursuant to this law and implementing rules.

42.4 The minimum required information for a proof of claim, the procedures for acceptance and recordation by the court, and the creation of the claims register shall be established by implementing rules.

Article 43
COMPUTATION OF CLAIM

43.1 The claim shall include the principal debt and any interest accrued at the rate specified under the contract up to the petition submission date. Claims shall also include the costs of civil and enforcement proceedings up to the case acceptance date, if so specified in the contract between the parties. The claim may also include any other amounts consistent with the contract. Claims shall be reduced to the extent the claimant has its claim satisfied by parties liable for the debtor's debts.

43.2 The procedures for computing claims shall be established by implementing rules.

Article 44
INTEREST AND MATURIT Y

44.1 Interest, penalties and similar charges shall cease to accrue on all unsecured claims after the petition submission date.

44.2 Interest at the pre-default non-penalty contract rate shall continue to accrue on secured claims up to the extent of die value of the secured property and no further.

44.3 Notwithstanding Article 44, paragraphs 1 and 2, interest shall accrue after the petition submission date if funds are available for disbursement after satisfaction of all other claims under Article 66, paragraphs (a) through (e) of this law.

44.4 Claims not yet matured shall be deemed matured as of the case acceptance date for purposes of submitting a proof of claim.

Article 45
CONDITIONAL CLAIMS

Funds from the bankruptcy estate shall be set aside for the satisfaction of contingent or conditional claims if it appears reasonably lively that such claims will be valid. The procedures for segregating and distributing such funds shall be established by implementing rules.

Article 46
SECURED CLAIMS

46.1 Where the proceeds generated, or estimated to be generated, from the sale or transfer of secured property are insufficient to fully satisfy the corresponding secured claim, the portion estimated to remain unsatisfied shall be considered an unsecured claim.

46.2 The value of the secured portion shall be estimated by the creditor on the creditor's proof of claim. This value shall be considered accurate for the purposes of voting on any proposed plan of reorganization, unless it is contested in court by the debtor or another creditor.

Article 47
VALIDATION OF CLAIMS

47.1 The administrator shall obtain a copy of the claims register from the court no later than ten (10) days after the claims bar date.

47.2 By no later than thirty (30) days after the claims bar date, the administrator shall evaluate the validity, extent and priority of claims presented against the debtor, and of any related perfected pledges or registered mortgages, and submit an objection where adequate grounds to do so exist.

47.3 Pledges and mortgages shall be valid if they are perfected or registered in accordance with applicable law.

47.4 All claims submitted before the claims bar date shall be deemed valid and accepted where no objection is submitted to the court no later than thirty (30) days after the clams bar date.

47.5 The claims register shall be made available for inspection by the debtor, any creditor or any interested party. If the claims register is in the custody of the administrator, appropriate arrangements shall be made for any creditor or interested party to view or photocopy the register during normal business hours.

47.6 Where a timely objection to a proof of claim is submitted, the court shall notify the affected creditor of the objection and shall schedule a hearing to occur no later than ten (10) days after submission of the objection. The court shall make a determination no later than two (2) days after the hearing. If no ruling is made within the time limit, the objection shall be deemed denied and the claim shall be allowed.

Article 48
FINAL CLAIMS LIST

48.1 No later than ten (10) days after resolution of all claim objections, the administrator shall compile and submit to the court a final list of claims, indicating their amount and status in accordance with the categories set forth in Article 66 of this law.

48.2 The final claims list shall be transmitted to me debtor and the creditors' committee, or if no committee has been formed, the claims list shall be transmitted to creditors holding me ten (10) largest unsecured claims.

Article 49
SETOFF OF CLAIM

49.1 The setoff of mutually held claims between the debtor and a creditor is allowed only to the extent provided in this Article.

49.2 Mutually held claims that were both in existence within six (6) months prior to the petition submission date shall be set off and shall not be subject to inclusion in the bankruptcy estate or the claims registration process, provided that written notice of the setoff is provided to the court prior to the claims bar date.

49.3 Claims that have arisen prior to the petition submission date shall not be set off against claims that have arisen subsequent to the petition submission date.

CHAPTER VII: AVOIDANCE ACTIONS

Article 50
AVOIDANCE OF CERTAIN TRANSFERS

50.1 The court may void transfers by the debtor made prior to and after the commencement of proceedings where it determines that such transfers:

(a) Were made for less than fair value;

(b) Reduced the total assets in the debtor's estate;

(c) Were undertaken with the intent to harm the interests of the creditors; or

(d) Occurred after the petition-submission date but before the appointment of the administrator.

50.2 A "transfer" for the purpose of this Article shall include any mode, direct or indirect, of conveyance, sale, exchange, gift, disbursement, disposal, grant of a pledge or mortgage, or other rights.

50.3 The procedures for voiding transfers shall be established by implementing rules. Such rules shall balance the interests of the estate and the need to treat creditors fairly with:

(a) The rights of bona fide transferees of assets of, and rights against, the estate; and

(b) The need to maintain reasonable certainty in commercial transactions.

CHAPTER VIII: REORGANIZATION

Article 51
THE PLAN OF REORGANIZATION

51.1 Any proposal for debtor that does not require the immediate liquidation by an administrator shall be subject to the provisions of this Chapter.

51.2 Any proposal of the type described in Article 51, paragraph 1 shall be formulated into a written document known as a "plan of reorganization."

51.3 A plan of reorganization may be submitted by the debtor, administrator, creditors holding at least thirty percent (30%) of the secured claims, creditors holding at least thirty percent (30%) of the unsecured claims, or persons owning at least thirty percent (30%) of the debtor's ownership capital whether in the form of shares, or otherwise.

51.4 A plan of reorganization shall be submitted to the court for approval no later than sixty (60) days after the case acceptance date. The deadline for submission of the plan may be extended by the court, where appropriate circumstances exist, for an additional thirty (30) days. Any deadline beyond ninety (90) days may be extended only with the unanimous

consent of the secured creditors and the creditors' committee or, if there is no creditors' committee, the creditors holding the ten (10) largest unsecured claims.

51.5 Expenses related to the formulation and submission of a plan of reorganization proposed by a party other than the administrator or debtor shall be covered by the proposing party, if the plan is not confirmed. Expenses related to the formulation and submission of a confirmed plan of reorganization or a plan of reorganization proposed by the administrator or debtor shall be an expense of the estate, and shall rank in accordance with Article 66, paragraph (b)(5) of this law.

Article 52
METHODS OF REORGANIZATION

The methods of reorganization shall be set forth in implementing rules.

Article 53
ADEQUATE DISCLOSURE

53.1 The plan of reorganization shall contain information sufficient to allow an ordinary person to make an informed choice on whether or not to vote in favor of the plan.

53.2 Notwithstanding other provisions of this Chapter, the plan shall set forth in understandable language how and when claims will be satisfied.

Article 54
CONTENTS OF A PLAN O F REORGANIZATION

54.1 A plan of reorganization shall include:

(a) A brief introduction generally describing the debtor's business activity and the circumstances leading to financial difficulty, of no more that two (2) pages in length;

(b) A description of the method and means for accomplishing the plan, detailing what measures arc intended to be taken in sufficient detail so that it is clear how the reorganization would be accomplished, including any financial projections upon which the feasibility of the plan is based;

(c) A brief discussion of the amount of money that would likely be available for creditors if the debtor enterprise were liquidated rather than reorganized as proposed in the plan and a description of how that money would be distributed;

(d) A statement of what amount of money or property is proposed to be transferred for the full or partial satisfaction of claims by class of creditors, as well as the procedure for satisfaction of the claims and the timing for such payment;

(e) A description of the procedure to be used for the sale of any assets, describing what assets would be sold, whether with or without continuation of any pledge or mortgage, and the intended use of any proceeds from such sales;

(f) A statement of the time periods for completion of the plan and a schedule for implementing major components of the plan;

(g) A statement of who the management would be and what their compensation would be;

(h) A statement of what hired specialists would be utilized and what their compensation would be, as well what the administrator's compensation would be; and

(i) The date that the plan would come into effect.

54.2 For purposes of voting and distribution of assets, a plan of reorganization may divide creditors into two or more classes, provided that the claims of all creditors in a class must be of a substantially similar type. Secured and unsecured claims may not' be in the same class. Secured claims may be classified together only if they are in the same collateral and have the same priority.

54.3 In any plan of reorganization, no class lower in priority shall receive any distribution or retain any rights unless all higher classes are either satisfied in full or have voted in favor of the plan.

54.4 In any plan of reorganization, no members of a class higher in priority shall receive a distribution exceeding the full satisfaction of their claims unless all lower ranking classes are either satisfied in full or have voted in favor of the plan.

Article 55
HEARING ON THE PLAN OF REORGANIZATION

The court shall schedule a hearing for consideration of the plan and voting by the creditors no later than thirty (30) days after the plan submission. The procedures for such hearing shall be established by implementing rules.

Article 56
VOTING AND CONFIRMATION

56.1 Secured and unsecured creditors possessing valid claims are eligible to vote.

56.2 Voting may be done in person at me hearing or by mail or hand delivery prior to the hearing.

56.3 Where voting is done prior to the hearing, all ballots shall be signed, in the case of legal persons by an authorized person. The court may prescribe procedures for verifying signatures. In order to be counted, a ballot shall be received by the court at least two (2) days prior to the hearing.

56.4 Where more than one plan of reorganization has been submitted, then the voting on all submitted plans shall take place at the same hearing.

56.5 Prior to the commencement of voting, the court shall inform all in attendance at the hearing of the results of the votes received prior to the hearing.

56.6 A class of creditors accepts the plan if a simple majority by amount of the claims in that class for which votes have been cast vote in favor of the plan. Claims for which votes have not been cast shall not be considered in determining whether a class has accepted or rejected the plan.

56.7 A class whose claims arc to be satisfied in full at the time of the effective date shall be deemed to have accepted the plan.

56.8 The plan shall be confirmed if all classes of creditors that are entitled to vote on the plan accept it.

56.9 If more man one (1) proposed plan is eligible for confirmation under this Article, then the court shall determine which plan to confirm based upon the expressed preference of creditors.

56.10 The hearing shall last no more than one (1) day, unless the secured and unsecured creditors present vote to extend such hearing, and such extension is thereafter approved by the court.

Article 57
CONSEQUENCES OF CONFIRMATION

57.1 Upon confirmation of the plan, all claims and rights of the creditors and other interested parties and obligations of the debtor specified by the plan are reformulated and governed by the terms stated within the plan. A confirmed plan shall be considered a new contract for the satisfaction of claims presented therein.

57.2 Upon confirmation of the plan, the estate ceases and all property re-vests in the reorganized debtor.

57.3 The debtor's actions shall conform to, and comply with, the provisions of the confirmed plan.

57.4 The management of the debtor as specified in the plan shall undertake all measures set forth within the conf irmed plan.

57.5 The administrator shall monitor compliance with plan provisions.

57.6 In cases where the debtor is a general partnership or limited liability partnership, nothing in this Article shall limit the right of creditors to seek satisfaction of their claims against the general partners of the debtor for the portions of their claims that are unsatisfied after completion of me reorganization plan.

Article 58
BREACH OF CONFIRMED PLAN

58.1 Upon a failure by the debtor to abide by the provisions of a confirmed plan, any creditor or other affected party may submit to the court a notice of breach of confirmed plan. The court shall transmit the notice to the debtor and the administrator no later than five (5) days after receipt of the submission, and schedule a hearing on the matter no later than ten (10) days after submission of the notice.

58.2 Upon a finding that a breach of the plan has occurred, the court shall:

(a) Issue a decision directing that the breach be cured within a specified period of time specified by the court, failing which the case may be converted to a liquidation;

(b) Issue a decision converting the case to a liquidation;

(c) Allow the debtor to submit amendments to the plan, the approval of which shall be governed by the requirements for the approval of a plan; or

(d) Issue any other decision to remedy the breach consistent with this law other applicable law.

Article 59
CONVERSION TO LIQUIDATION

59.1 The court shall issue a decision for the commencement of a liquidation in accordance with Chapter 9 of this law where:

(a) No plan is submitted within the time prescribed in Article 51, paragraph 4 of this law;

(b) No plan is confirmed by the completion of the hearing held pursuant to Article 55 of this law;

(c) The debtor fails to conform to the requirements of a confirmed plan and no satisfactory remedy is proposed pursuant to Article 58 of this law;

(d) The debtor fails to file a timely statement of intention to reorganize pursuant to Article 15 of this law; or

(e) The debtor requests that a liquidation be commenced and there is no competing plan proposed by another party.

59.2 The conversion of proceedings to liquidation pursuant to this Article shall entail the lifting of the moratorium on the rights of secured creditors to exercise their rights to the secured properly.

CHAPTER IX: LIQUIDATION

Article 60
SALE OF THE PROPERTY OF THE ESTATE

60.1 Unless specified otherwise in this Article, the sale of any or all of the property of the estate shall be conducted by the administrator, or by his designee or hired expert under the close supervision of the administrator, pursuant to the provisions stated within this Chapter.

60.2 Sales shall be by auction or by direct negotiation unless the court authorizes another method.

60.3 Where the liquidation proceedings have commenced as a result of a conversion from reorganization proceedings, the administrator shall have the right to sell secured property only with the written consent of me creditor whose claim is secured with the property.

60.4 With respect to liquidation proceedings initiated directly, the administrator shall have the exclusive right to sell immovable secured properly for the period of ninety (90) days following the case acceptance date, and movable secured property for the period of sixty (60) days following the case acceptance date. Thereafter the moratorium on secured creditors exercising their rights to secured property contained in Article 33 shall be lifted without the need for a court decision. Sale of the secured property by the administrator after the lifting of the moratorium shall occur only with the written consent of a creditor whose claim is secured with the property.

60.5 Sales procedures shall be established by implementing rules.

Article 61
ABANDONMENT

With the approval of the court, the administrator may abandon property that is of inconsequential value or is burdensome, to the estate. Upon abandonment, the property shall cease to be part of the estate and secured creditors may enforce their rights against the property in accordance with applicable law. Notice and opportunity to object to abandonment shall be governed by the procedures specified for sales by direct negotiation. The abandonment shall be effective upon adoption of a court decision approving it

Article 62
EXTRAORDINARY SALE OF PROPERTY

Notwithstanding Article 60 of this law and the implementing rules:

(a) Where goods of a perishable nature are proposed to be sold, the administrator shall inform the court by an *ex parte* "Emergency Notification of Proposed Sale of Perishable Goods." The court shall respond to the administrator's notification no later than two (2) fall days after its submission. If the court fails to issue a decision staying such proposed sale within two (2) fall days, the administrator may proceed with the sale;

(b) Where property whose maintenance will cause undue expense is proposed to be sold, the administrator shall inform the court by means of an *ex parte* "Emergency Notification of Proposed Sale of Burdensome Property." The court shall respond to the administrator's notification no later than five (5) days after its submission. If the court fails to issue a decision staying such proposed sale within five (5) days. the administrator may proceed with the sale.

Article 63
PROCEEDS FROM SALE OR USE OF PROPERTY

Proceeds received from the sale or use of property of the estate are also property of the estate and shall be protected and accounted for by the administrator. Any rights in such proceeds arising from a pledge, lien, mortgage, or other security interest shall be respected according to applicable law.

Article 64
EXPENSES OF SALE

64.1 Proceeds from the sale of property that is not subject to a security interest shall be used first to cover the sale expenses, after which the remaining funds shall be distributed pursuant to Article 65 of this law.

64.2 Proceeds from the sale of property subject to a security interest shall first be applied to cover the sale expenses, then to meet the claims of the secured creditors in accordance with their priority under applicable law. The remaining funds shall be distributed pursuant to Article 65 of this law.

Article 65
DISTRIBUTION PRIORITIES

65.1 Claims of creditors shall be satisfied by class in the following order in all cases of liquidation:

(a) Secured claims, less reasonable cost of sales pursuant to Article 64, paragraph 2;

(b) Priority claims, including:

(1) Court expenses;

(2) Administrator's expenses;

(3) Administrator's remuneration;

(4) Administrative expenses required for me maintenance and protection of the estate, including expenses due to the continued operation of the debtor after the petition submission date;

(5) (In cases of aborted reorganization), reorganization expenses;

(6) (In cases of aborted reorganization), reorganization financing and credit;

(7) Payments and expenses for personnel during the time of case administration; and

(8) Creditor's committee expenses.

(c) Claims for unpaid pre-petition employees' wages (limited to two months salary or wages per person);

(d) Unsecured claims, including wage claims not subject to higher priority treatment; and

(e) Claims of the debtor's owners shareholders, founders, participants or partners.

65.2 In each category, the secured claims will be satisfied in conformity with me priorities according to applicable law and the unsecured claims will be satisfied on a pro-rata basis.

Article 66
SATISFACTION OF CLAIMS

66.1 Claims shall be satisfied in the order of priority by class as set forth in Article 65 of this law.

66.2 The satisfaction of claims that belong to a subsequent class of lower priority may be initiated only after the complete and full satisfaction of the claims of the previous class of higher priority.

66.3 Where resources are insufficient to fully satisfy all claims of a given class, the claims of that class shall be satisfied in proportion to the amount of each claim.

66.4 The procedures for paying claims shall be established by implementing rules.

Article 67
CLAIMS FILED LATE

Where there is sufficient justification for late filing, a claim submitted after the claims bar date may be satisfied after the satisfaction of all timely-filed claims.

Article 68
RESERVE FUNDS

Funds or other property may be set aside in a separate fund placed with the court, or placed with a private trustee or custodian for the satisfaction of:

(a) Claims that are in dispute and have not yet been resolved by the court;

(b) Claims for amounts subject to payment or redemption where documents, identification or coupons are required to be submitted such as with convertible securities, bearer bonds, or similar instruments;

(c) Future expenses in connection with maintenance of certain property, and

(d) Future claims certain to arise but unascertainable at the time of proposed distribution or plan confirmation.

CHAPTER X: CASE CLOSURE

Article 69
FINAL REPORT

69.1 After completion of a plan in the case of a reorganization, or payment of claims pursuant to the approved proposed distribution in case of a liquidation, the administrator shall submit a final report to the court.

69.2 The contents of the final report, its distribution, and the procedures for resolving objections to it shall be established by implementing rules.

Article 70
CASE CLOSURE

70.1 In a liquidation, after the distributions have been completed or substantially completed and the approval by the court of the final report, the administrator shall request the court to close the case. In a reorganization, after the plan provisions have been carried out or substantially carried out and the court has approved the final report, the court shall close the case upon application of the administrator or plan proponent.

70.2 At the request of me administrator, at any stage of the procedure, where it is determined that resources from the estate are insufficient to cover the costs of priority claims as defined in Article 65 of this law, the administrator may immediately submit a final report and, upon its approval, the court shall issue a decision closing the case.

70.3 If no creditors have submitted claims within the time period defined by Article 42 of this law, the administrator may immediately submit me final report and, upon its approval, the court shall issue a decision closing the case.

Article 71
CONSEQUENCES OF CASE CLOSURE

71.1 In a liquidation, the debtor shall be considered legally dissolved upon case closure. The court shall issue a notice of case closure and termination no later than five (5) days after case closure. The court may also issue a decision removing the name of the dissolved company from the active business registry.

71.2 In a reorganization case, upon case closure the debtor shall be considered financially recovered and may continue business activities without further restriction or supervision.

Article 72
DISCHARGE OF DEBTS

72.1 Upon case closure, all debts due from the debtor arising prior to the petition date are extinguished by operation of law and any action to collect such extinguished debts shall be prohibited, except as the court may order with respect to debts yet to be paid pursuant to a confirmed plan of reorganization that have not yet been satisfied.

72.2 Nothing in this Article shall affect obligations arising pursuant to a contract of guarantee between the debtor and third parties, or the general partners of the debtor in cases where the debtor is a general partnership or limited liability partnership.

Article 73
DISCHARGE OF THE ADMINISTRATOR

73.1 After it approves the final report, the court shall issue a decision:

(a) Relieving the administrator of any further duties in relation to the case, except for the execution by the administrator of any final distributions that have not yet been executed;

(b) Approving the final payment of any unpaid administrator fees or expenses where appropriate; and

(c) Releasing any bond or deposit held to ensure faithful performance of duties.

73.2 Nothing in Article 73, paragraph 1 shall limit the liability of the administrator for his illegal acts or omissions during his term as an administrator.

CHAPTER XI: CIVIL AND CRIMINAL RESPONSIBILITY

Article 74
SUBMISSION OF FALSE CLAIMS OR DOCUMENTS

74.1 Where the debtor, member of the board of directors or higher governing body of the debtor, an owner, partner, or any person acting on the debtor's behalf submits documents or makes an assertion within documents submitted in a case under this law that are knowingly false or misleading, the person making such submission or assertion shall be fined not more than five thousand (5,000) euros per instance and may be subject to imprisonment.

74.2 Where a natural or legal person knowingly submits a false claim or false document or makes a false statement in a document submitted to the court in a case under this law, the person or persons making such submission or assertion shall be fined not more than five thousand (5,000) euros per instance and may be subject to imprisonment.

Article 75
LIABILITY OF DIRECTORS AND OFFICERS FOR CIVIL WRONGS (TORTS) AGAINST THE DEBTOR AND ITS ESTATE

75.1 Directors and officers of a debtor, or persons holding equivalent positions, shall have an obligation to compensate creditors that remain unpaid after the distribution of proceeds from a liquidation under the following circumstances:

(a) When a debtor has liquidated itself under proceedings other than those described in this law; or

(b) When such officer or director receives actual or constructive notice that the value of the debtor's assets has fallen below its liabilities and fails to take reasonable steps to initiate rehabilitation or liquidation proceedings under this law, or implementing rules, within thirty (30) days of receiving such notice.

75.2 Directors and officers of a debtor shall have an obligation to reimburse the debtor's estate for harm caused to it as the result of transfers of property made:

(a) Prior to the petition-submission date where such transfer (i) is for less than fail value and (ii) occurs when such director or officer has actual or constructive-notice that the value of the debtor's assets has fallen below its liabilities; or

(b) After the petition-submission date in violation of Article 28, paragraph 1 of this law.

75.3 For purposes of this Article, constructive notice shall mean a reasonable opportunity to personally assess the circumstances leading to any of the above occurrences.

75.4 In determining the extent of the liability of a director or an officer (or equivalent person) under this Article, the court shall consider the degree of control of such director or officer over the debtor, and the extent of the involvement of such director or officer in the actual management of the operations of the debtor.

Article 76
FALSE OATH OR TESTIMONY

Where a person knowingly makes a false oath or gives false testimony in a hearing or other proceeding under this law or implementing rules, the person making such submission or assertion shall be fined not more than five thousand (5,000) euros per instance and may be subject to imprisonment.

Article 77
CRIMINAL CONCEALMENT OF ASSETS

Any person who knowingly and fraudulently transfers, conceals or fails to turnover any property or documents to an administrator, or to a person acting in the capacity of administrator, or to the court to evade the processes and procedures of this law or implementing rules shall be fined not more than five thousand (5.000) euros per instance and may be subject to imprisonment.

Article 78
BRIBERY

Any person who knowingly and fraudulently gives, offers, receives or attempts to obtain any money, property, remuneration, compensation, reward, advantage, or promise of an act or forbearance to act in order to gain any advantage in a case under this law shall be fined not more than twenty-five thousand (25,000) euros per instance and may be subject to imprisonment for up to-five (5) years.

Article 79
KNOWING DISREGARD OF THE PROVISIONS IN THIS LAW

The knowing disregard of a provision of this law or implementing rules may be punished by a fine of up to five thousand (5,000) euros per instance or by imprisonment

Article 80
MISAPPROPRIATION OF ASSETS

Where the debtor, administrator, person acting in the capacity of an administrator, or persons hired to work under the supervision of the debtor or administrator knowingly steals, appropriates, destroys, desecrates, or purchases, either directly or indirectly, any papers or property of the estate, for personal use or for use by members of the person's immediate family, shall be fined not more that twenty-five thousand (25.000) euros per instance and maybe subject to imprisonment for up to five (5) years.

CHAPTER XII: FINAL PROVISIONS

Article 81
APPLICABLE LAW

This law shall supersede any provision in the applicable law which is inconsistent with it

Article 82
ENTRY INTO FORCE

This law shall enter into force ninety (90) days after the date of its promulgation by the Special Representative of the Secretary-General. Parties may submit petitions to the court, and the court may begin adjudicating such petitions, as of the date on which the law enters into force.

Academician Nexhat Daci
President of the Assembly of Kosovo