

How can we get companies with a chance at profitability back on their feet quickly after the epidemic is over?

The main theses of the Capital Strategy report “Financial restructuring after the Covid-19 epidemic: A proposal for a special, out-of-court restructuring procedure,” Warsaw, April 15 2020. Authors: Stefan Kawalec, Katarzyna Błażuk and Dariusz Jaszczyński.

After the epidemic ends, many companies will be overwhelmed by the ballast of debt

The Covid-19 epidemic is causing a severe economic breakdown all around the globe. After it’s over, many companies in Poland won’t be able to meet their obligations, and banks won’t be able to recover a large portion of their loans.

Using normal restructuring procedures, dealing with this ballast of unpaid debt and irrecoverable receivables would take years and lead to the unnecessary liquidation of many companies.

The experience with the Polish law of 1993

In the first half of the 1990s, as companies were being overwhelmed by unpaid debts, the act of February 3 1993 on financial restructuring of companies and banks introduced, for a three-year period, a special, accelerated restructuring procedure, so-called bank-led restructuring proceedings. This allowed many companies to be brought back to life, helping rescue hundreds of thousands of jobs.¹

A fast track for restructuring companies that have prospects for profitability

We suggest introducing to Polish law, for a set period of time, a special non-court procedure allowing fast and effective corporate restructuring.

1. Proceedings can be initiated at the company’s request and conducted by a bank, provided that it believes in the feasibility of the plan to rescue the company and pledges its support through loans during the process.
2. The proceeding guarantees the company temporary protection from creditors, debt reduction (when necessary) and current financing.
3. If the creditors grant the company aid in the form of debt reduction, it will also receive state aid of not more than 20% of the total non-refundable financial aid granted to the company by all stakeholders. Taking into account this kind of leveraging of public funds and the expected effectiveness of the restructuring process, the social and economic effects of public assistance through such proceedings seem potentially higher than the benefits from other forms of support for the economy.
4. The purpose is to protect companies and get them back on their feet quickly if they have lost creditworthiness during the epidemic but have a product (or service), a market and prospects for profitable operations. Without creating this kind of fast track, many such companies will collapse as a result of the accumulation of debt, the lack of ability to reconcile the conflicting interests of various creditors and shareholders, and the duration of court proceedings.

An amendment to the 1993 act or a new law

Two pathways are being considered for introducing the proposed solution:

- 1) An amendment to article 37 of the 1993 law reinstating bank-led settlement proceedings, along with other amendments adjusting the law to today’s conditions.
- 2) Passing a new law.

¹ Cf. Fernando Montes-Negret and Luca Papi, “The Polish Experience in Bank and Enterprise Restructuring”, The World Bank, Financial Sector Development Department, November 1996.