

COVID-19 Emergency Business support actions in Italy

Q&A



Covid-19 task force*

The following Q&A are based on the recent developments of the COVID-19 emergency and the regulations implemented in Italy in this respect.

Liquidity Decree Law - Art. 9 e 10

Q.: The suspension of activities makes it impossible for me to meet my commitments under an approved debt restructuring agreement, which I should have completed by the end of 2020. What will happen?

Article 9 of Legislative Decree 23/2020 extended by six months the deadlines for the fulfilment of compositions with creditors or debt restructuring agreements expiring between 23 February and 31 December 2020.

Q.: My company is waiting for the approval of a composition with creditors, but the plan we have submitted risks being no longer feasible?

With regard to the proceedings pending on 23 February 2020 for the approval of compositions with creditors or debt restructuring agreements, art. 9 of Decree Law 23/2020 allows the debtor to submit an application to the Court for the granting of a period not exceeding 90 days for the filing of a new plan, a new proposal or a new restructuring agreement.

However, this option is not granted if the meeting of creditors has already been held and the legal majorities have not been reached.

Q.: Can I apply for an extension even if I have applied for the composition with creditors without indicating the relevant content, and the relevant terms have already been extended?

Yes, you can file the application even if an application for bankruptcy has been filed. The application must provide evidence that the extension became necessary because of the Covid-19 emergency and may not exceed 90 days. The same application may also be filed by those who have been granted the extension provided

in Article 182 bis, paragraph 7, of the Bankruptcy Law.

Q.: Can I apply only for the modification of the terms for the fulfillment of prior compositions with creditors and restructuring agreements if the procedure is still pending?

Yes, but only for a maximum of six months after the original deadlines. Until the hearing set for the homologation, you will be able to file a memorandum containing the indication of the new deadlines and supplying documents to give evidence of the need for the requested amendment.

Q.: An application has been filed on 3 April 2020 for the bankruptcy of my company. What will happen?

Art. 10 of Decree Law 23/2020 has established that applications for bankruptcy filed in the period between 9 March 2020 and 30 June 2020 are inadmissible, unless the request is submitted by the Public Prosecutor and contains a request for precautionary or conservative measures to protect the assets or the company.

Q.: A customer gave me a cheque in payment of services. Can I cash it?

Yes, cheques can be presented for payment during the suspension period provided for by art. 10 of Decree-Law 23/2020 and are payable on the day of presentation. In fact, the suspension provided in the said rule applies from March 9 to June 30, 2020 in favor of the payee, who can present the cheque for payment even after the deadlines provided by art. 32 of the Law on Cheques.

With regard to cheques and promissory notes, the following terms are also suspended:

- protests,

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- registration in the archives of irregular payers and possible revocation of the authorization to issue cheques;
- issue of penalties for cheques issued without funds.

Q.: On 10 April, in full Covid-19 emergency, a protest against me was published at the Chamber of Commerce, for the late payment of a promissory note due on 15 March. Is that correct?

 The Chamber of Commerce should provide ex officio for the cancellation according to art. 10, paragraph 3 of Decree-Law 23/2020