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# **BEITEN BURKHARDT**

## **Russian Desk**

Moratorium on new bankruptcy  
proceedings in Russia

07 April 2020



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On 1 April 2020, a Federal Law<sup>1</sup> was adopted to mitigate the consequences of the spread of coronavirus. The law is comprehensive and proposes amendments, inter alia, in the real estate lease, state procurements and licensing sectors. One amendment concerns bankruptcy legislation.

In accordance with the Federal Law, the Russian Government is entitled to impose a moratorium on the commencement of bankruptcy cases in respect of the specific category of organisations and individual entrepreneurs. **The moratorium may be imposed not only in the event of a natural or man-made emergency, but also in the event of a material change in the rouble exchange rate**, and also in other circumstances. At present, an exhaustive list of such circumstances has not been provided. The Government availed itself of the indicated authority and imposed a corresponding moratorium on 3 April 2020<sup>2</sup>.

We recommend briefly acquainting the management of companies and employees of legal departments.

#Bankruptcies

#Coronavirus

#Moratorium

The following important legislative amendments should be taken into account:

1. The moratorium on the commencement of bankruptcy procedures is imposed in specific economic sectors (air carriage, hotel business, public catering, education, tourism, culture, sport)<sup>3</sup>.

The check as to whether an organisation or individual entrepreneur is covered by the moratorium is determined based on the code of main type of activity as at 1 March 2020. Such a code is contained in the Unified State Register of Legal Entities and in the Unified State Register of Individual Entrepreneurs.

2. The moratorium also applies to systematically important<sup>4</sup> and strategic enterprises<sup>5</sup>.

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<sup>1</sup> Federal Law No. 98-FZ dated 1 April 2020 "On the Introduction of Amendments to Certain Legislative Acts of the Russian Federation on Issues of the Prevention and Clean-up of Emergencies".

<sup>2</sup> Government Resolution No. 428 dated 3 April 2020.

<sup>3</sup> The full list of economic sectors has been determined by the Government Commission and has been posted on the website of the Federal Tax Service:  
<https://www.nalog.ru/rn77/business-support2020/9704514/>.

<sup>4</sup> The list of systematically important enterprises include 646 organisations. The full list is determined by the Government Commission:  
[http://www.cominvestakmt.ru/files/download/news/2020/protocol\\_2020.pdf](http://www.cominvestakmt.ru/files/download/news/2020/protocol_2020.pdf).

<sup>5</sup> The lists of strategic enterprises are approved by Decree No. 1009 of the President of the Russian Federation dated 4 August 2004 and Directive No. 1226-r of the Government of the Russian Federation dated 20 August 2009.

3. The term of the moratorium is six months (in other words, until 3 October 2020). The indicated term may be extended further to a decision of the Russian Federation, unless the circumstances serving as the grounds for the imposition of the moratorium have passed.
4. The petitions of creditors on declaring debtors bankrupt filed in court during the moratorium, and also petitions that had not been accepted by a court before the imposition of the moratorium, will be returned to the petitioner.
5. The notice of a creditor regarding its intention to file a petition on declaring a debtor bankrupt entered in the Unified Federal Register of Information on Bankruptcies during the moratorium should not be posted online.
6. During the term of the moratorium, levy of execution on the pledged assets of a debtor, inter alia, without recourse to the courts, is not permitted, enforcement proceedings in respect of pecuniary sanctions further to claims that arose before the imposition of the moratorium are suspended. However, the attachment of a debtor's assets and other limitations on the disposal of their assets established during the enforcement proceedings, remain in place.
7. Transactions on the assignment of assets and the assumption of obligations performed by a debtor during the term of the moratorium may be declared null and void. One exception to the rule concerns transactions concluded during the ordinary course of business of the debtor, provided that the price of the assets or the amount of the assumed obligations does not exceed one percent of the value of the debtor's assets, determined on the basis of the financial statements during the previous period as at the date of the imposition of the moratorium.
8. The amendments stipulate a number of specifics for bankruptcy cases commenced during the three months after the termination of the moratorium.

An important change concerns procedural timeframes in connection with this fact.

The deadlines stipulated by the Federal Law on bankruptcy<sup>6</sup> for a challenge of the transactions of the debtor are calculated from the date of the imposition of the moratorium and include the corresponding period prior the imposition of the moratorium, the term of the moratorium, and also one year since the termination of the moratorium, but not later than the date of the commencement of the bankruptcy case.

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<sup>6</sup> Federal Law No. 127-FZ dated 26 October 2002 "On Insolvency (Bankruptcy)".

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