

# Moratorium on initiation of bankruptcy proceedings to be introduced in Kazakhstan

July 8, 2020

On 11 May 2020, the President of Kazakhstan Kasym-Zhomart Tokayev ordered the suspension of the initiation of bankruptcy proceedings against legal entities and individual entrepreneurs until 1 October 2020 to prevent pressure from creditors acting in bad faith.

In accordance with this order, the Ministry of Finance of the Republic of Kazakhstan developed a draft Resolution of the Government of the Republic of Kazakhstan "On Suspending the Initiation of Bankruptcy Proceedings" (the "**Resolution**").

It should be noted that currently Kazakhstan laws do not establish any clear criteria to be used by the court to determine a creditor acting in bad faith at the time when the creditor applies to the court to declare the debtor bankrupt. Apparently, this is why the publicly available draft Resolution does not itself refer to "creditors acting in bad faith".

According to the draft Resolution, the state revenue authorities and quasi-public entities shall not file with the court applications to declare legal entities and individual entrepreneurs bankrupt during the period from 11 May 2020 until 1 October 2020.

Thus, should the Resolution be adopted, it will impose a temporary moratorium on initiation of bankruptcy proceedings by state revenue authorities and quasi-public entities.

The notion of "quasi-public entities" includes:

- state enterprises;
- limited liability partnerships, joint-stock companies, including national management holdings, national holdings, national companies, in which the state holds a stake as the founder, participant or shareholder;
- subsidiaries, dependant and other legal entities affiliated with the above-mentioned entities under Kazakhstan laws.

Adoption of the Resolution in its current version will not result in a ban on initiating bankruptcy proceedings at the request of the debtors themselves and (or) other creditors (including international financial organisations and second-tier banks).

We understand that as of the date of this publication the Resolution has not been adopted yet.

We are closely monitoring the situation and will keep you updated on any developments.

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