

October 6, 2020
Capital Link Webinar

The New Greek Insolvency Code:
A Unified Framework for Early Warning, Preventive
Restructuring and Bankruptcy – Debt Release

Transfer of business as a restructuring tool

Panelist:

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Emergency Sales: a global trend

- Selling: an alternative to *Chapter 11*-styled reorganizations
- Greece: Selling introduced in 2011
 - its significance is recognized among restructuring practitioners since 2016 (“106d agreements”)
- Advantages
 - Flexibility
 - Selection of assets, liabilities & contracts to be transferred to the investor’s company (NewCo)
 - Preservation of firm’s value
 - Uncertainties relating to the success of a payment plan minimized
- Encouraged but not regulated in the EU Restructuring Directive (2019/1023)

Examples of Successful 106d Agreements

Firm	Industry	Year
Dias	Fish farming	2016
Marinopoulos	Super market	2017
Mamidoil	Oil industry	2018
Lemonis	Footwear	2018
Neorion Syrou	Shipyard	2018
Creta Farms	Food production	2020

Expected amendments to 106d agreements

- Creditor-driven agreement:
 - 106d agreements without debtor's consent
 - Creditors can apply if debtor faces “inability to pay” or if there is a significant equity loss or if financial statements have not been submitted for two years
 - “Inability to pay” assumed, if 40% of debt owed to banks/ State not paid for 6 months.
 - A trustee (“*mandataire*”) might be appointed by court to administrate debtor's affairs until ratification of agreement

The “special administration” procedure and expected amendments

- Special administration: a parallel procedure aiming at the sale of businesses as a going concern
 - Regulated in an emergency law since 2014
 - Unlike 106d proceedings: a special administrator is always appointed and a bidding procedure takes place. Only assets can be transferred (in one or in more parts).
- Proposed amendments:
 - Procedure integrated in the Code (as an alternative to piecemeal bankruptcy liquidation)
- Importance of 106d agreements expected to increase



Thank you!

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