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THE FEDERAL COUNCIL PHASES OUT INSOLVENCY LAW MEASURES PREVENTING CORONA-RELATED BANKRUPTCIES

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At its meeting on 14 October 2020, the Federal Council decided not to extend the temporary measures to prevent corona-related bankruptcies. However, the Federal Council opts for an earlier entry into force of the extension of the provisional debt-restructuring moratorium as of 20 October 2020, which forms part of the Swiss corporate law reform already approved by the Swiss parliament. About the background:

Under the COVID-19 Ordinance on Insolvency Law, which came into force on 20 April 2020 and remained effective for a period of six months, the Federal Council temporarily suspended the duty of companies to submit a notice of over-indebtedness under certain circumstances. At the same time, a new institute of an unbureaucratic so called COVID-19 moratorium for small and medium-sized enterprises (SMEs) was introduced. These insolvency law measures intended to prevent companies from corona-related bankruptcies and allowed companies to adapt to the new situation.

Despite being authorised by the newly enacted Federal COVID-19-Act, the Federal Council refrained from extending the insolvency law measures for the time being. However, the Federal Council continues to analyse the situation on an ongoing basis and is prepared to adopt necessary insolvency law measures if needed.

In light of the current crisis and the phase out of the insolvency law measures, the Federal Council apparently decided to opt for an earlier entry into force of the extension of the provisional debt-restructuring moratorium from four to eight months, which was already approved by the Swiss parliament as part of the Swiss corporate law reform. This allows for a facilitated restructuring of companies. The other elements of the Swiss corporate law reform will enter into force at a later date.