Changes to Brazil’s Bankruptcy Act and impacts on cross-border restructurings

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Law 14.112/2020 made important changes to how businesses are restructured in Brazil, with updates to the legislation governing judicial restructurings (“RJ” – recuperação judicial), non-judicial restructurings (“RE” – recuperação extrajudicial) and bankruptcies, which are all insolvency proceedings under Brazil’s Bankruptcy and Restructuring Law, Law 11.101/2005 (“LRF” – Lei de Recuperação das Empresas e Falência). The main changes introduce rules that:

- confer a greater degree of legal certainty in financing granted to businesses under judicial restructuring and in sales of assets;
- allow creditors to propose judicial restructuring plans;
- allow employment claims to be restructured in RE processes;
- reduce the percentage of support needed for court approval of extrajudicial restructuring plans that bind all creditors included in the plan;
- govern cross-border insolvencies.

One important advance is the adoption of cross-border insolvency rules based on the UNCITRAL model law. We now have measures that allow Brazilian courts to recognize the effects of foreign insolvency proceedings in Brazil, along with mechanisms for cooperation between local and foreign courts designed to give greater protection and legal security to transnational investments.

In a podcast organized by the International Insolvency Institute, Sergio Savi, a partner in BMA’s Restructuring and Insolvency practice, took part in the episode on “New Cross-Border Restructuring Tools: Brazil’s Adoption of the Model Law” and highlighted some of these changes.

Along with Sergio, Ana Carolina Reis do Valle Monteiro of Kincaid |Mendes Vianna Advogados, and Nyana Abreu Milleras of Sequor Law joined the podcast.

The episode is available on Spotify and Apple Podcasts. Just click to listen!

Want to know more?

Read the newsletter on “The main changes to the Reorganization and Bankruptcy Act” prepared by BMA partners Sergio Savi and Eduardo

Guimarães Wanderley, and BMA attorney Natalia Yazbek.

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