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COVID 19: Measures in insolvency and procedural law

Suspension of limitation periods under debt enforcement and bankruptcy law until 19 April 2020

On 18 March 2020, the Federal Council ordered an extraordinary suspension of limitation periods under debt enforcement and bankruptcy law. It applies from 19 March 2020 until 4 April 2020 and extends to the entire territory of Switzerland. The ordinary debt enforcement holiday suspensions applies from 5 April 2020 until Sunday 19 April 2020. No debt enforcement procedures will in principle be carried out during the suspension of limitation periods and during debt enforcement holiday suspensions, i.e. no payment orders will for instance be served. However, exceptions from this rule are permitted, in particular in relation to non-deferrable actions in order to secure assets.

On 9 April 2020, the Federal Council announced that the suspension would not be extended. As a result, debt enforcement procedures will be resumed from Monday, 20 April 2020. As a temporary measure, debt collection documents may also be served without confirmation of receipt, provided that proof of delivery exists (e.g. by A-Post-Plus). In addition, assets can now be auctioned online.

In order to ease the burden on companies that could go bankrupt as a result of the COVID 19 pandemic, the Federal Council relaxed the obligation to report over-indebtedness on 16 April 2020. From 20 April 2020, companies that were not over-indebted on 31 December 2019 can waive the requirement to notify the court of over-indebtedness if there is a prospect that the over-indebtedness can be remedied by 31 December 2020. SMEs can also apply to the court for a so-called COVID 19 deferral for three months under certain conditions. An extension for a further three months is possible.

Suspension of limitation periods under the laws of civil and administrative procedure until 19 April 2020

The Federal Council has suspended limitation periods until after Easter also in the area of civil and administrative procedure. The judicial recess started on 21 March 2020, and will end on 19 April 2020. A further extension is not planned.

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For the currently suspended periods, it should be noted that the suspension does not apply to all types of procedure (e.g. conciliation procedures are not covered by it). Moreover, only pending procedures are affected. This means, for example, deadlines for the registration of a building lien or for contesting a protocol of the condominium owners' community continue to run normally. The suspension of limitation periods basically only applies within administrative procedures if the procedure concerned is covered by the suspension of limitation periods over Easter. In contrast to the Federal Government, the Canton of Lucerne does not have a suspension of limitation periods in administrative procedures. By means of an ordinance, the State Council of the Canton of Lucerne has now introduced a suspension of limitation periods in administrative procedures with retroactive effect as of 21 March 2020 and until 19 April 2020 for the statutory deadlines and those ordered by the authorities. However, this suspension does not apply to procedures concerning suspensive effect and other precautionary measures, planning and construction law and public procurement.

On 16 April 2020, the Federal Council regulated the conditions under which civil courts may use video and telephone conferences so that court operations can be maintained despite COVID-19. The corresponding ordinance will enter into force on 20 April 2020.

Further questions
Due to the developing situation and the different circumstances of each individual case, we recommend that you contact us with any legal questions.

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