

Restructuring Plan Checklist & Guidelines

There are three specific types of preventive restructuring procedures for restructuring plans, in terms of Article 9(3) the Pre-Insolvency Act (Chapter 631 of the Laws of Malta) (hereinafter the “Act”):

- ✓ The standard preventive restructuring procedure
- ✓ The pre-formulated preventive restructuring procedure
- ✓ The pre-approved preventive restructuring procedure.

When making an application to court to assist the debtor in the implementation of one of these restructuring plans, the Insolvency Practitioner needs to adhere to the requirements of the Second Schedule of the Act, which provides clear guidelines on the contents of the restructuring plan.

The Second Schedule of the Act lists the mandatory contents of restructuring plans and the following is a comprehensive checklist for restructuring plans in terms of Article 3 of the Second Schedule.

As a minimum, restructuring plans should contain the following information:

i.	the identity of the debtor company;	<input type="checkbox"/>
ii.	details of all assets and liabilities of the debtor at the moment in time when the restructuring plan is submitted (Maltese law allows for this information to be correct up to one month of the submission of the restructuring plan for adoption). This list should include a formal valuation of the assets, given by the officers of the company;	<input type="checkbox"/>
iii.	a description of the economic situation of the company, the position vis-à-vis employees, and any available information about of the causes and extent of the difficulties of the company. When considering the economic situation of the company, the restructuring plan should also indicate whether an extension for a stay of individual enforcement actions is necessary, and, if so, the reasons why such an extension is justified;	<input type="checkbox"/>

iv.	details about how the restructuring plan is to be successfully implemented, with the ultimate aim being the avoidance of insolvency and the plan's ability to steer the debtor company back to economic viability;	<input type="checkbox"/>
v.	the identity and contact details of the parties affected by the restructuring plan, and a description of their claims and interests covered by the restructuring plan;	<input type="checkbox"/>
vi.	where applicable, the classes into which the affected parties have been grouped, for the purpose of adopting the restructuring plan, including the respective values of claims and interests in each class;	<input type="checkbox"/>
vii.	where applicable, the parties, whether named individually or described by categories of debt, which are not affected by the restructuring plan, describing the reasons why it is proposed not to include them;	<input type="checkbox"/>
viii.	the identity and contact details of the insolvency practitioner who will be assisting the debtor in the preventive restructuring procedure. In terms of Article 9 of the pre-insolvency Act, the person making the application shall, by default, be considered to be the Insolvency Practitioner responsible for assisting the debtor in this regard.	<input type="checkbox"/>

The restructuring plan should also include the specific terms under which the proposed restructuring is intended to take place. Below kindly find a number of guidelines to assist in this exercise. When drafting the restructuring plan, the Insolvency Practitioner should include, but not limited to:

i.	any proposed restructuring measures aimed at restructuring the company's business, such as changes to the structure of a company's assets and liabilities or capital structure. If the restructuring plan proposes the sales of assets or parts of the business or the sale of the business itself as a going concern, all this information should be included in the restructuring plan, as well as any operational changes to the business itself	<input type="checkbox"/>
ii.	where applicable, the proposed duration of any proposed restructuring measures	<input type="checkbox"/>
iii.	how the employees, if there are any, will be informed and consulted about the effects of the restructuring plan in terms of Maltese law	<input type="checkbox"/>

iv.	information about whether the restructuring plan will potentially lead to the dismissal of any employees and whether the remaining employees will undergo changes in their working arrangements	<input type="checkbox"/>
v.	information about how the company's financial position is expected to be impacted by the restructuring plan. The plan should include two different projections, the first showing its expected financial position if the plan is accepted and the second showing a comparison of the company's financial position if the plan is denied	<input type="checkbox"/>
vi.	any new financing anticipated as part of the restructuring plan, and the reasons why the new financing is necessary to implement that plan	<input type="checkbox"/>
vii.	information about any changes to the officers of the company and its management team	<input type="checkbox"/>
viii.	a detailed plan, including relevant time frames, of the information which the debtor will be disclosing to the parties affected by the restructuring plan.	<input type="checkbox"/>