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**TRANSPOSITION OF THE “RESTRUCTURING AND INSOLVENCY” DIRECTIVE « RESTRUCTURATION ET INSOLVABILITE »**

***N.B.: This document is not a legal opinion. It is not a substitute to the necessary advice provided by the competent practitioners. This document also does no refer to all the legal rules, which shall apply.***

**In application of paragraph 2 of article 8 of directive 2019/1023 of 20 June 2019 « restructuring and insolvency »**, this is a check-list for restructuring plans, specifically adapted to the needs of small and middle size companies with difficulties. This list will be regularly updated with the practitioners’ comments.

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**Draft of the preventive restructuring plan:**

The draft plan for the preventive restructuring procedure with classes of affected classes is prepared in application of article L. 626-30-2 of the commercial code.

It is necessary to anticipate the preparation of the restructuring and to prepare this draft plan as early as possible before the opening of the restructuring procedure. In the event of a request to open a *sauvegarde accélérée* (accelerated safeguard) procedure, this draft plan shall have been prepared during the *conciliation* procedure.

The draft plan provided for in article L. 626-30-2 of the commercial code shall include at least the following information, provided for in article D. 626-65 of the commercial code:

1° The identity of the debtor;

2° The debtor's assets and liabilities at the time of submission of the restructuring plan, including a net book value for the assets, a description of the economic situation of the debtor and the position of employees, and a description of the causes and the extent of the difficulties of the debtor;

3° The affected parties, as well as their claims or interests covered by the restructuring plan;

*For the definition of affected parties, see article L. 626-30 of the commercial code.*

4° The classes into which the affected parties have been grouped, for the purpose of adopting the restructuring plan, and the amount of claims and the nominal value of the interests in each class;

5° The parties which are not affected by the restructuring plan, with a description of the reasons why it is proposed not to affect them;

6° The identity of the practitioners (*administrateurs judiciaires* and *mandataires judiciaires*) appointed in the field of the restructuring;

7° The terms of the restructuring plan, including, in particular:

- any proposed restructuring measures;

- the proposed duration of any proposed restructuring measures;

- the recall of the procedures applicable for informing and consulting the *Comité économique et social* (Social and Economic Committee) ;

- where applicable, overall consequences as regards employment such as dismissals, short-time working arrangements or similar;

- any new financing anticipated as part of the restructuring plan, and the reasons why the new financing is necessary to implement that plan;

8° A statement of reasons which explains why the restructuring plan has a reasonable prospect of preventing the insolvency of the debtor and ensuring the viability of the business, including the necessary pre-conditions for the success of the plan.

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