

ITALIAN ENTERPRISE CRISIS INDICATORS

At the date of entry into force of the Italian Crisis and Insolvency Code (hereinafter the “Code”), the National Council of Certified Public Accountants (in Italian “CNDCEC”) -- pursuant to Section 13, paragraph II of the Code -- published on 20 October 2019 the “indicators” that must be used by the managing and controlling bodies of commercial enterprises for the early detection of a crisis, once approved by the Italian Ministry of Economic Development.

(A) THE PARAMETERS OF THE CRISIS

The Code provides that the crisis can be diagnosed primarily through:

- (1) Detection of recurring and significant delays in payments;
- (2) Identification of negative equity or, in any case, net equity below the minimum amount provided by law; and/or
- (3) Ascertaining the non-sustainability of the enterprise’s total debt for the subsequent six months on the basis of available and foreseeable free cashflow.

(B) THE CRISIS INDICATORS PROVIDED BY CNDCEC

For the early detection of an enterprise’s state of financial crisis, CNDCEC has determined that the first indicator to be verified is the so-called *Debt Service Coverage Ratio* (“DSCR”) -- applied to cashflow -- which must always be greater than 1.

If it is not possible to establish the enterprise’s DSCR (for instance due to lack of reliable data) -- and the crisis is not already identified based on the parameters listed under letter A above -- the following 5 indicators specifically identified by CNDCEC, in progressive order of importance, shall apply:

- (i) Sustainability of financial burdens in proportion to the enterprise’s turnover;
- (ii) Capital adequacy in proportion to total debt;
- (iii) Liquid assets in proportion to cashflow;
- (iv) Liquidity indicator (ratio between short-term assets and short-term liabilities); and
- (v) Tax and social security dues in proportion to the enterprise’s assets.

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With the entry into force of the Code, therefore, it will be essential for each of the enterprise's professional advisors to develop specific competences in the application of the above new provisions for the early detection of a financial crisis.

Milan, 11 December 2019