



# Early restructuring and a second chance for entrepreneurs

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## Malta Country fact sheet

**Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.**

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

### The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

### What is the situation currently in Malta? <sup>(1)</sup>

#### Effectiveness of insolvency proceedings

28

Malta ranks 28<sup>th</sup> among EU Member States when it comes to the effectiveness of its insolvency proceedings.

#### Average length of insolvency proceedings (years)

MT

3.0

EU

2.0

#### Recovery rate for secured creditors following insolvency proceedings

MT

40.7%

EU

65.0%

► The most likely outcome for debtors in financial difficulty in Malta is **liquidation**.

<sup>(1)</sup> All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

## What will the new rules improve?

The situation today in Malta <sup>(2)</sup>	With the new rules
<p>In restructuring proceedings, companies and entrepreneurs are prevented from controlling their own assets and the day-to-day operation of their businesses.</p>	<p>✓ The companies and entrepreneurs will be in control of their businesses which will <b>avoid unnecessary costs and better ensure the continuation of the business</b>. An insolvency practitioner will be appointed when necessary.</p>
<p>Access to restructuring procedures is too late, leading companies into formal insolvency proceedings.</p>	<p>✓ Viable enterprises in financial difficulties will have access to <b>restructuring tools at an early stage</b> where their chances of survival are higher.</p>
<p>A “breathing space” from enforcement of actions is automatically provided to the debtor, but it is too long (12 months with two possible extensions of 2 months).</p>	<p>✓ Viable companies in financial difficulties can have access to <b>a time-limited “breathing space”</b> from enforcement actions of no more than 4 months, renewable until a maximum duration of 12 months under strict conditions. This will not only facilitate negotiations and reduce the length of procedures, but also provide further predictability and legal certainty for creditors.</p>
<p>New financing for companies in the process of early restructuring is not sufficiently encouraged or protected.</p>	<p>✓ Access to fresh money is vital for the rescued company. <b>New financing will be specifically protected</b> increasing the chances that restructuring will be successful.</p>
<p>The framework of debt discharge does not provide for a time limit, thus lacking legal certainty.</p>	<p>✓ Honest insolvent entrepreneurs will have access to <b>a full discharge of their debt after a maximum period of 3 years</b>, without prejudice to adequate safeguards put in place to prevent possible abuses.</p>

<sup>(2)</sup> Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.