

THE REORGANIZATION PLAN AS A STRATEGY FOR ENTITIES IN DIFFICULTY.

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Abstract: *The current condition in the Romanian economy needs to find answers to different problems from the entities participating in economic life on the one hand, and managers on the other. In the current economy many companies have difficulties in paying their suppliers, the companies don't have enough resources in order to pay their debts. Because of this, the companies try to find out a way to survive on the market and to pay their debts through a reorganization plan. The reorganization plan ruled by the insolvency law is an important chance gave by the law to the companies in difficulty. If the reorganization plan doesn't works the result is going into bankruptcy.*

Key words: *insolvency, judicial reorganization, bankruptcy*

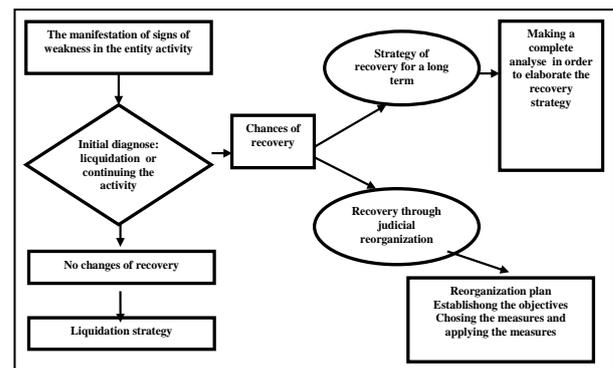


Fig. 1. The recovery process of companies

1. INTRODUCTION

The scientific research is based on a significant problem, the problem of companies in difficulty, companies whose number is becoming greater in the current economic conditions. The economic decline of entities is materialized in insolvency and in most cases in bankruptcy, bankruptcy which may have negative implications on the social level for the staff involved in these economic entities, and also at economic level by breaking through the economic chain manufacturer - supplier - customer.

Insolvency is the state of the debtor's property that is characterized by insufficient cash funds available to pay outstanding debts. Insolvency is of two kinds: obvious - when the debtor 30 days after the due date has not paid its debt to one or more creditors and imminent - when it appears that the debtor can not pay at maturity outstanding debt incurred with the funds due date. (Law 85,2006)

The general assumption from which we started is this paper is the prevalence of increasingly of the companies in difficulty in the Romanian economic market.

2. INFORMATION

In the current economic crisis is expected that some economic agents may encounter difficulties in developing business and even to go insolvent. Thus, if in 2009 were registered between 12.000 and 14.000 applications for insolvency, the specialist estimates doubling this number in 2010, up to a maximum of 25.000 requests for insolvency.

Traders that are most likely affected by a possible insolvent are mainly those who had uncontrolled growth during the economic boom and that the lack of coherent development plans and corresponding prediction of risk faced at this time with a sudden and dramatic loss of activity.

Unfortunately, most of those traders who go insolvent unnecessarily tries to recover from business to society through their own efforts, without resort to specialized consultants in the field and without the use of legal provisions created just for you protection. Such attempt at recovery leads but mostly a failure, so that society finally comes to bankruptcy, without any possibility exists of its economic recovery.

Any economic entity when identifying a potential risk must use a recovery process, possibly through a restructuring process, which is a complex process requiring the completion of some activities targeted and specifically formulated (Piperea, 2008). This process of recovery can be synthesized, schematically, as in the figure 1.

The insolvency procedure can have two stages: judicial reorganization or bankruptcy. The judicial reorganization proceedings under Law 85/2006 on insolvency proceedings, is a procedure that can be applies to the debtor as legal person for payment of its debts. Judicial reorganization is a set of rules laid down by the law which intends the payment of debts through a reorganization plan or the planned liquidation of assets to settle liabilities under judicial control.

After the identification of risk, analyze and the selection of the strategy, these must be applied in the entity, in time, in order to be achieved the expected effects. So, this procedure can be done by two ways: the restructuring of the debtor's activity by some economic measures, financial, organizational, and legal and liquidation of assets of the debtor's assets to cover creditors' claims. Judicial reorganization, the two modes can be made through a plan, a plan to restructure the debtor's business plan or a liquidation of any assets of the debtor's assets. The activity of the debtor continues under the direction of person's entitled by law. The main motivation of a judicial reorganization is the wish of continuing the activity even there is a difficult period for the entity with financial problems

So, the reorganization plan must provide the measures and the ways through which the activity of the company will be redressed and how the debts can be paid by the company in a period of three years.

After the commencing of the insolvency procedure, the judicial administrator studies the debtor company, and informs the creditors about the possibilities of the reorganization of the company. If the reorganization is possible the reorganization plan can be made and also should be voted by the creditors. Debtor or other interested person (judicial administrator, creditors) are able to propose a plan for reorganizing the debtor's business in order to recover all the debts and also to reintegrate the company on the market.

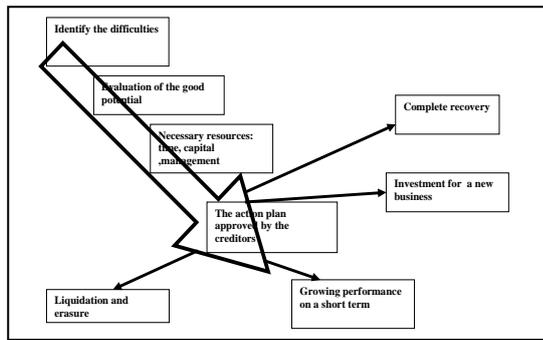


Fig. 2. The structure of judicial reorganization

We consider that the judicial reorganization can be summarized like is presented in Fig.2.

So, the reorganization plan must be feasible and has to include measures taken for recovery the activities, the budget revenue and also the expenditure and cash flows forecasted during implementation plan (usually 3 years).

The most important element of this plan is the payment plan which means how the debtor intends to pay creditors. In the payment plan of all claims must be subject to a fair and equitable treatment.

This plan must be accepted by the syndic judge, approved by creditors and confirmed by the syndic judge and only after that can be implemented.

The reorganization can be completed with success and by paying all the debts or can failure, which means the bankruptcy opening. The reorganization period starts after the confirmation of a reorganization plan by the syndic judge.

The importance of judicial reorganization is given by the opportunity for entities facing financial problems to continue their work and to be reintegrated into the economy. (Gâlcă, 2005). The essence of this stage is the preparation of a reorganization plan and on the other hand the voting of these plans by the creditors.

The compliance of the reorganization plan depends on the ability of managers to implement and to lead the work in order to achieve it.

The reorganization of the entity may have two completions: success of the reorganization plan and reintegration into the economic entity or the failure of the reorganization plan and passing into bankruptcy.

The decision to embark on a restructuring plan should be based on several key elements: understanding of the key economic factors affecting the economic environment in which the debtor operates; the assessment of the recovery potential of the debtor; to identify the available options. (Bărbulescu, 2002)

During this period, may occur, some difficulties due to the customers, suppliers which don't want to work with one entity in the judicial reorganization procedure.

An important element is on going concern principle (Buglea & Bufan, 2006).

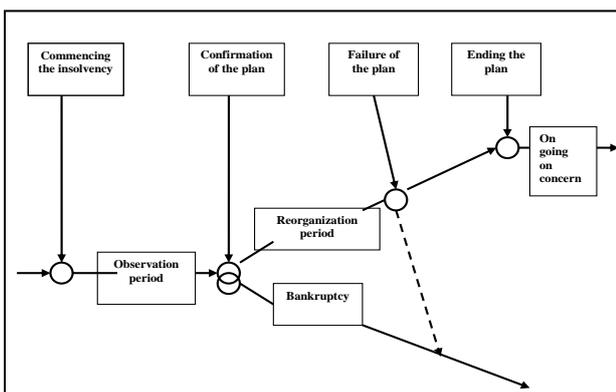


Fig. 3. The financial exercise of insolvency

The entire judicial reorganization procedure can be divided in three financial exercises:

- first exercise – the observation period;
- second exercise – the judicial reorganization period;
- third exercise – the bankruptcy period.

The most important period is the observation period of insolvency. In this period the most important decisions are taken: reorganization or bankruptcy.

The insolvency financial exercise is not the same with the calendaristic year.

There are several advantages of outburst reorganization procedure for firms in difficulty, such as from the date of opening of the reorganization law to suspend all judicial or extrajudicial actions aiming to achieve claims against the debtor or its assets, liabilities but no longer pay due under a reorganization plan without longer pay interest or penalties, possible payment rescheduling debts to creditors, etc.

The best way to overcome the crisis by a company in difficulty is the judicial reorganization.

3. CONCLUSION

The current economic crisis will have negative consequences on the existing economic entities. Many viable economic entities will enter the suspension of payments due to acute lack of liquidity in the market.

The number of bankruptcies could be reduced by the introduction of protective measures and a greater confidence in the judicial reorganization procedure. The economic entities facing financial difficulties should seek reorganization and only in case of failure to reach a state of bankruptcy. However, this does not occur on the Romanian market due to lack of managerial culture, the heads of economic entities waiting until the last moment, without taking the necessary measures.

It is important to distinguish between insolvency of a dealer in good faith and insolvency of a sick pay. Both banks and institutions should have a greater openness to the insolvency of a dealer in good faith. If a viable business, the insolvency of a dealer acting in bad faith to extend the period of commencement of bankruptcy can have negative consequences on other traders. Unfortunately most of the state institutions doesn't agree the reorganization plan. Also, may reorganization plans don't succeed because of the customers, suppliers or banks who don't want to a company in judicial reorganization.

Global recession led to a decrease in the economic entities, which will be reflected increasing the number of insolvent companies. Also economic entities that have liquidity could turn into the bargain hunters. The global economic crisis will have negative effects on the companies, many companies will go into insolvency procedure and only a reorganization plan can save the good traders. Is expected and an increase in bankruptcies in 2010 due to global economic crisis and because of financing problems of business.

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