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Briefing

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Establishment of Personal Insolvency for Romanian Individuals

After many versions and years of discussions between stakeholders, the Romanian Parliament has finally passed a law establishing the procedure of insolvency of natural persons – the law was published in the Official Gazette on 26 June 2015 ("**Personal Insolvency Law**") and will become fully effective in six months. The Personal Insolvency Law was inspired by the legislation applicable to the insolvency of natural persons in EU countries like Germany, UK, France, Austria, Italy, as well as by US and Australian legislation, and aims to offer Romanian citizens similar rights (and obligations) as the majority EU Member States recognize when their EU citizens declare insolvency.

The Personal Insolvency Law creates the legal framework for insolvency of individuals, i.e. a procedure of declaring insolvency of individuals aimed at offering possibilities to natural persons to (partially) clean their debts, under certain conditions set out by the Personal Insolvency Law.

There are three different insolvency procedures, applicable depending on the particular situation of the individual: (i) insolvency procedure based on a debt repayment plan (upon request of the individual); (ii) insolvency procedure based on asset liquidation (either at the request of the individual or of his/her creditors); and (iii) simplified insolvency procedure (applicable to individuals who lost over 50 per cent of their work capacity or qualify for standard retirement).

The threshold of debt which entitles an individual to claim insolvency is established at 15 minimum wages, currently such amount being approximately EUR 3,000.

The relevant bodies which will apply the insolvency procedure to individuals are the insolvency commission (a new administrative body which will be established for the purposes of the personal insolvency of individuals), the insolvency administrator or liquidator and the courts.

While the banking industry is generally fine with the compromise solution enacted under the Personal Insolvency Law, it is to be seen to what extent individuals will try to abuse of the newly introduced benefits.