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Content:

Bankruptcy and Foreign Investment: Navigating
Armenian Legal Frameworks



CLIENT NOTE

BANKRUPTCY AND FOREIGN INVESTMENT: NAVIGATING ARMENIAN LEGAL FRAMEWORKS

INTRODUCTION

With the growing number of foreign investments in Armenia, understanding its legal landscape is crucial for international creditors, particularly in the context of bankruptcy. However, foreign investors are often cautious about the legal frameworks surrounding bankruptcy, as these can significantly impact investment security and returns.

Investing in Armenia may require a general understanding of its bankruptcy laws. This client note aims to provide a general overview of Armenia's bankruptcy laws concerning foreign investment, highlighting key considerations and potential challenges.

THE LEGAL LANDSCAPE

Armenia's bankruptcy regime is primarily governed by the Law on Bankruptcy of Armenia. This law provides a framework for managing insolvency, including the declaration of bankruptcy, the administration of assets, and the distribution of proceeds to creditors. For foreign investors, understanding these provisions in general may be critical, particularly in terms of how they impact the security of their investments and the ability of the investors to recover funds in the event of a debtor's insolvency.

Bankruptcy proceedings in Armenia can be initiated by debtors, creditors, or, in certain cases, by state authorities. For foreign investors, this is crucial, as initiating proceedings could be a strategic move to protect their interests if a local business partner is in financial distress. Once proceedings begin, the court appoints a bankruptcy administrator who oversees the process, including managing the debtor's assets and assessing claims from all creditors.

Armenian law establishes a hierarchy for the settlement of claims in bankruptcy. Secured creditors, often including foreign investors who have secured their loans or investments with collateral, are prioritized in the distribution of the debtor's assets. Understanding this priority system is vital, since it affects the ability of foreign investors to recover their investments in the event of insolvency.

KEY CONSIDERATIONS FOR FOREIGN INVESTORS

Equal Treatment of Foreign Investors: Foreign investors are particularly concerned about the recovery rate in bankruptcy. Armenian law provides various protection methods/schemes, such as the prioritization of creditor claims and the option for foreign creditors to participate in bankruptcy proceedings, ensuring their rights are upheld without discrimination. So, under Armenian law, foreign

creditors are entitled to the same rights and protections as domestic creditors in bankruptcy proceedings. This means that foreign investors have the same ability to initiate bankruptcy proceedings, submit claims, and participate in the distribution of the debtor's assets. However, navigating the procedural requirements and understanding the local legal context is essential to protect these rights effectively.

Protection of Secured Interests: Foreign investors often secure their investments through collateral or other security arrangements. The Armenian bankruptcy law recognizes these arrangements and, as a result, prioritizes secured creditors over unsecured creditors. However, to enforce these rights effectively, it is crucial for foreign investors to ensure that their security interests are properly documented and registered according to the Armenian legal requirements.

Impact of Cross-Border Insolvency Regulations: Although Armenia has not adopted the UNCITRAL Model Law on Cross-Border Insolvency, cross-border insolvency issues may still arise for foreign investors with multinational interests. Armenian law handles such matters under its domestic legal framework and relevant international agreements. Therefore, foreign investors should know how Armenian courts might interact with foreign insolvency proceedings and the potential implications for their investments.

Leveraging Bilateral Investment Treaties (BIT) Protections in Disputes: In the event of a dispute arising from bankruptcy proceedings, foreign investors should consider invoking the protections afforded by BITs. These treaties provide a framework for resolving disputes through international arbitration, offering a potentially more favorable forum than local courts. Investors should be aware of the specific provisions of the applicable BITs and how they can be used to safeguard their investments.

STRATEGIC CONSIDERATIONS FOR FOREIGN INVESTORS

Due Diligence: Conducting comprehensive due diligence before investing in Armenia is imperative. This process should include a thorough analysis of the financial stability of the potential investment, the legal environment, and the specific risks associated with bankruptcy. Foreign investors should also consider the potential impact of the Armenian bankruptcy law on their investment and whether additional protections, such as security interests, are necessary.

Structuring Investments to Maximize Legal Protections: Investors should structure their investments in a manner that maximizes legal protections in the event of insolvency. This might involve using holding companies, securing loans with collateral, or including arbitration clauses in contracts that specify a neutral jurisdiction. Additionally, foreign investors may consider ensuring their investment agreements align with the protections available under applicable BITs.

Monitoring and Legal Engagement: Foreign investors must remain actively engaged in monitoring the financial health of their investments and be prepared to take swift legal action if signs of financial distress emerge. Engaging with experienced local legal counsel is crucial for navigating the complexities of the Armenian bankruptcy law and ensuring that the investor's rights are adequately protected throughout the process.

CONCLUSION

The intersection of bankruptcy and foreign investment in Armenia presents both challenges and opportunities for foreign investors. Armenia's legal framework provides a structured process for managing insolvency, but foreign investors must be diligent in understanding and navigating these laws to protect their interests. By conducting rigorous due diligence, structuring investments to maximize protections, staying actively engaged in monitoring financial health, and leveraging international legal protections such as BITs, foreign investors may be able to effectively mitigate the risks associated with bankruptcy and enhance the security of their investments in Armenia.

HOW WE CAN HELP?

Our experienced bankruptcy law experts and licensed insolvency administrators are committed to helping you fully leverage Armenia's bankruptcy regulations to protect and maximize your interests.

NOTE: This material is for general information only and is not intended to provide legal advice. It correct at the time of publication, but we do not assume any obligation to update it should facts or law change.

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