

GEDİK & ERAKSOY

December 2018

Amendments to Moratorium Rules

In order to clarify several points in the moratorium process, the government introduced further amendments to the Execution and Bankruptcy Law on 19 December 2018.

It is reported that more than 3,000 moratorium applications have been filed since the introduction of the new moratorium provisions to the Execution and Bankruptcy Law (the **EBL**) in March 2018. Since moratoriums have become a commonly used rescue option for financially distressed companies, further amendments have been made to the EBL to prevent abuse of the process.

The purpose of these amendments is to ensure that the moratorium process is conducted to professional standards with the involvement of experts. The amendments will not be applicable to ongoing moratorium processes, which will be carried out in accordance with the earlier versions of the relevant EBL provisions that were in force at the filing date.

The amendments are as follows:

- The applicant is required to include a report on the moratorium filing which can only be issued by a limited number of independent auditing firms authorised by the Public Oversight Accounting and Auditing Standards Authority (the **Authority**).
- The acceptable reports can now be issued by those accredited independent auditing firms. The previous version of the EBL was fairly relaxed in relation to the accreditation of auditing firms.
- The scope of the report to be included is now described as "an audit report" whereas it was "a financial analysis" in the previous version of the EBL.
- If the moratorium process is supervised by three moratorium commissioners, one of the commissioners has to be elected from among the independent auditors accredited by the Authority.
- The moratorium commissioners are required to be elected from among the commissioner lists prepared by the "regional board of experts" and only those persons who have completed the necessary training can be included on the lists. The earlier version of the EBL was not clear in relation to the election of commissioners.
- If it is understood that the debtor's purpose in filing a moratorium is to jeopardise the rights of its creditors, the competent court may reject the moratorium request and declare the debtor bankrupt.

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