The National Assembly of the Republic of Serbia has rendered, on December 14 2017, at the Fifth Sitting of the Second Regular Session in 2017 the Law on Amendments to the Law on Bankruptcy ("Official Gazette of RS" no.113/2017, hereinafter: „Law”) which is applicable as of December 25, 2017.

The Law provides more protection for the creditors, prescribes reduction of costs and shorter time of bankruptcy proceeding. Amendments are focused on improvement of legal position of secured creditors during reorganization and bankruptcy proceeding, and further refining of its rules and acceleration.

Some of the most important amendments refer to improvement of the position of secured and lien creditors. Secured creditors are now entitled to one representative at the Committee of Creditors and they have a possibility to access and participate in the proceeding, while this right was previously reserved for unsecured creditors. The Law prescribes that certain actions in the proceeding can be undertaken only with consent of secured creditors, such as leasing or selling the property under mortgage or lien without public bidding, while previously, this depended on
the bankruptcy administrator. The Law also introduces possibility of lifting the ban of execution for the assets of the debtor which is under mortgage or pledge with giving right to the secured creditors to sell it under rules for mortgage sales. In case the secured creditor fails to sell the assets within six months, the assets will be returned to the bankruptcy administrator for selling it in the bankruptcy proceeding.

The Law also prescribes that the bankruptcy judge renders the Decision of insolvency if creditors whose credible claims represent more than 50% of the total claims (instead 70% as it was before) opt for bankruptcy proceeding. This means that the Decision on bankruptcy can be rendered if at least simple majority of creditors isn’t interested in reorganization, since in that case, it is reasonable to assume that there would be no necessary majority for any plan of reorganization.

The following group of amendments is aimed at increasing the efficiency of bankruptcy proceeding. Thus, the deadline for submission of the plan is limited to 90 days from the initiation of the bankruptcy proceeding. The deadline for considering the reorganization plan is also changed from maximum 20 to maximum of 90 days, thus providing appropriate time frame for creditors and other participants in the proceeding to review the reorganization plan, submitting appeals and responding to them, as prescribed for the Pre-prepared plan of reorganization (PPPR). Deadlines for creditors to submit objections and for the debtor to respond are specified, now prescribing that the deadline for submitting objections of 15 days is preclusive whereas the debtor is obliged to respond to any objection within 15 days (previously 8 days), also being a preclusive deadline. The PPPR can be changed only once and the debtor is also obligated to submit it as revised text which facilitates reviewing changes for creditors. The Law codified previous jurisprudence according to which the proposal for initiation of the bankruptcy procedure based on PPPR submitted by the debtor, has priority over regular proposal submitted by creditors (regardless of the time of submitting the proposal, assuming that there is no decision on previous proposal) also prescribing that the proponent whose proposal for bankruptcy was rejected or dismissed that in case of rejection of his proposal for initiating bankruptcy procedure based on PPPR, he may resubmit a new proposal. However, in that case, the previous proposal submitted by the creditors shall prevail.

During the preliminary procedure, based on the proposal of the proponent or ex officio, bankruptcy judge can impose measures to prevent the change of financial and economic status of the debtor, including: 1) appointment of temporary bankruptcy administrator; 2) ban on payments from the account of the debtor, or permission for disposal of funds in the bank account, with the previous consent of the if bankruptcy judge or the temporary bankruptcy administrator 3) ban on disposal of assets without prior consent of bankruptcy judge or the temporary bankruptcy administrator 4) ban on determination and realization of execution or out of court settling against the debtor; 5) ban to the organization for enforced collection to realize orders for enforced collection from the account of the debtor.