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## Insolvency Laws:

# How Countries Have Revamped Their Insolvency and Restructuring Laws

January 2022

# Japan

Home

Unlike many other countries, Japan does not have a specific law governing insolvency, but rather there are various aspects of civil and commercial law that form the basis for insolvency in Japan. Accordingly, there have not been wholesale revisions to existing laws aimed specifically at providing relief from the impacts of COVID-19. Instead, the Japanese government, and to some extent private industry, has taken other steps aimed at mitigating the economic and financial hardship brought about by the COVID-19 pandemic.

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| **Relief for Payment of Taxes and Utilities** | Until 31 December 2021:<br>• An extended period is granted to debtors for filing the required documents during arrangements with creditors. Periods fixed between 60 and 120 days can be extended for justified reasons, by no more than 60 days.<br>• Petitions aimed at terminating concordato preventivo agreements and appeals filed for declarations of bankruptcy proposed in respect of companies which submitted their request for concordato preventivo con continuità aziendale, approved after 1 January 2019, are inadmissible.<br>Until 31 December 2022, debtors that have requested admission to an arrangement with creditors without a defined plan, or agreements on debt restructuring, can withdraw their request provided that they have filed a debt recovery plan with the Companies Register, subject to court approval. The withdrawal request can be submitted within a deadline set by the court, ranging from 60 to 120 days from the beginning of the proceedings and extendable by 60 days. |
| **Subsidy to Support Companies that have Suspended Employees Due to COVID-19** | The Ministry of Health, Labour and Welfare of Japan (MHLW) has expanded the Employment Adjustment Subsidy (Koyo Chosei Jyoseikin) program for companies to encourage and support the continued employment of their employees during the company's temporary suspension of business due to the economic downturn caused by COVID-19. Under Japanese law, a company that suspends their employees from work due to suspension of its business, for a "reason attributable to the employer," is required to compensate the employee for the time absent from work. The Employment Adjustment Subsidy provides subsidies to companies for this compensation and the expansion announced by MHLW expands the eligibility criteria to cover companies affected by COVID-19 and also increases the amount of subsidies for those companies. |
| **Changes in Delisting Criteria for Publicly Traded Companies** | Under pre-revision Article 601.1.(5) of the Tokyo Stock Exchange Securities Listing Regulations, a listed company on the Tokyo Stock Exchange (TSE) was delisted when the company was insolvent as of the end of a fiscal year and its insolvency continued for an additional 1 year period. In response to the COVID-19 pandemic, from 21 April 2020, the TSE has extended the delisting grace period from 1 year to 2 years for listed companies that have fallen into insolvency due to COVID-19.<br>The TSE has clarified that it will not consider delisting a company to which an outside auditor expresses an "adverse opinion" or "no opinion" in the company's quarterly financial statements, as long as the company has been impacted by COVID-19. |
| **Changes in Reassignment Criteria** | The TSE has relaxed its reassignment criteria for companies adversely affected by COVID-19. Under the previous rule (Article 311.1.(5)), a company listed on Section 1 of the TSE could be reassigned to Section 2 if the company was insolvent as of the end of a fiscal year. Section 1 companies have been given a 1 year grace period before reassignment. |
| **Are There New Moratoria on Debt Collection?** | Financial industry – Sumitomo Mitsui Banking Corporation and Sumitomo Mitsui Trust Bank have offered to negotiate repayment conditions; Hokuriku<br>Bank has waived fees in connection with amendment of repayment conditions. |

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