

The CJF considers commercial insolvency injunctions as “urgent matters”

On April 27, 2020, the Plenary of the Federal Judiciary Council (“CJF”) issued the General Agreement 8/2020 (“**Agreement 8/2020**”) regarding the work structure that will be adopted by the Federal Judiciary during the period from May 6 to 31, 2020.

In the Agreement 8/2020, CJF ordered the jurisdictional courts to only – and exclusively – attend those proceedings considered “urgent” under the criteria provided under the Agreement 8/2020. The CJF considers “commercial insolvency injunctions” as urgent matters.

Injunctions are court decisions entered, before or during the proceedings, designed to prevent damages to the parties or to society, as well as to preserve the subject matter of the proceedings, while the court enters a final judgment. In bankruptcy proceedings, injunctions are intended to protect the bankruptcy Estate and creditors’ rights.

Under the Bankruptcy Law, some of the injunctions that might be granted by the court during bankruptcy proceedings are: (i) the prohibition to the debtor to pay due obligations previous to the date of the filing of the bankruptcy request or claim; (ii) the suspension of all execution proceedings against the Estate; (iii) the prohibition to the debtor to carry out disposal or lien operations of the main assets of its company; (iv) attachments of assets; (v) seizure of the company’s cash; (vi) forbidding the transfer of resources or securities in favor of third parties; and (vi) detention of debtor’s administrators.

Agreement 8/2020 does not clarify if urgent insolvency injunctions are only available for insolvency proceedings that are already being processed, or if they are also available for new insolvency requests or claims. The aforementioned will have to be analyzed on a case-by-case basis by the courts, who will also have to consider the nature of the urgency under: *“human rights at stake, the transcendence of their possible transgression and the consequences that might be produced because of waiting for the end of the contingency term...”*.

To obtain additional information contact our experts:

Diego Sierra, Partner:

+52 (55) 5258 1039 | dsierra@vwys.com.mx

Alejandro González, Associate:

+52 (55) 5258 1039 | algonzalez@vwys.com.mx

Juan Francisco Barrera, Associate:

+52 (55) 5258 1039 | jbarrera@vwys.com.mx

VON WOBESER Y SIERRA, S.C.

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S I N C E R E L Y

VON WOBESER

VON WOBESER Y SIERRA, S.C.

Paseo de los Tamarindos 60
05120 Mexico City
+52 (55) 5258 1000
vonwobeser.com