

The balance sheet test strikes back

In 2009, as part of a set of "anti-crisis" amendments to the Czech Insolvency Act, the Czech Parliament relieved debtors of the obligation to commence insolvency proceedings on the grounds of the balance sheet test of insolvency. The relief was temporary, however, and will expire in 2012.

The Czech Insolvency Act 182/2006 brought back to life, with effect from January 2008, the balance sheet test of insolvency (see our publication "*Does your balance sheet still balance?*", January 2009).

The test has existed in Czech insolvency law since its reintroduction in 1991, however, in the period between 1996 and 2007, it was watered down to basically just a duplicate of the cash flow test.

The recession of 2009 raised concerns that the balance sheet test might force insolvency proceedings on debtors as a result of erratic downward swings in market valuations of their assets. In response, the Parliament suspended the debtors' obligation to commence insolvency proceedings on the basis of the balance sheet test, however, the test as such remained part of the law (see our publication "*The "anti-crisis" amendments to the Czech insolvency act*", June 2009).

This suspension will expire on 1 January 2012. As of the New Year, directors of Czech

companies in all sectors of the economy will once again need to be mindful of their obligation to commence insolvency proceedings if the market value of their company's assets should slide below the amount of the company's liabilities, and of their liability for damages to creditors should they not fulfil this obligation in time.

When the suspension was introduced by the 2009 amendments, the assumption was that by 2012, the economy would be safely out of the woods. It remains to be seen, in the face of recent developments in the European sovereign debt markets, to what extent this assumption will really hold true.

Downloads

- **Publication:**
[Does your balance sheet still balance?](#)
January 2009
- **Publication:**
[The "anti-crisis" amendments to the Czech insolvency act](#)
June 2009

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