

Czech Republic Introduces New Solvency Test

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On 1 July 2017 a new amendment to the Czech Insolvency Act came into force. One of the most significant changes introduced by the amendment relates to the assessment of insolvency of the debtor, performed by means of the cash-flow insolvency test.

Under Czech law, the debtor is insolvent if it has several creditors, due and payable debts for more than 30 days, and it is not able to fulfill them.

However, the amendment introduces a presumption that the debtor *is able* to fulfill its due and payable debts where there is a so called “coverage gap”. The coverage gap is established if the debtor is able to prove that the difference between its due and payable debts and available funds is less than a tenth of its due and payable debts, or the coverage gap will decrease below a tenth of its due and payable debts during an eight-week period (12 weeks in exceptional cases). To prove any of these conditions, the debtor will need to submit a **liquidity report** (drawn up by an auditor, sworn expert or a restructuring and insolvency consultant) to the insolvency court within 14 days from the commencement of the insolvency proceedings. The particular details in respect to the liquidity outlook are regulated by the regulation issued by the Ministry of Justice.

According to the regulation, the liquidity report will have to be drawn up based on the financial statement prepared as at the end of the month preceding the month in which the insolvency proceedings have been initiated. The liquidity report shall be drawn up in strict compliance with the requirements of the regulation, which comments on its particulars in detail. Should the requirements of the regulation not be met, the insolvency court will not be able to take the liquidity report into the consideration.

It must be noted that the introduction of the coverage gap to the cash-flow insolvency test is only one of the changes introduced by the amendment to the Czech Insolvency Act. See our [article for](#) further details of the changes.

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