Global Restructuring and Insolvency Guide - Italy

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*This content was last reviewed around October 2021.*

**Remark:** Italy is a member of the European Union. Please refer to the section "European Union" under Quick Links below to learn more about the implications with respect to the European rules that apply in the field of restructuring and insolvency. The European Restructuring Directive has not yet been implemented in Italy. In January 2021, in fact, Italy has requested the European Commission a one-year extension (i.e., until 17 July 2022) of the deadline to implement the Directive.

# Initial Considerations

## Can you take security over all types of assets, including accounts receivable?

It is possible to take security over most assets, including receivables and bank accounts, whereas security on equipment requires the appointment of a custodian, which, in the context of an operating plant, is a problem as it is for the same reason with security on inventory (i.e., it would require segregation). However, non-possessory security on inventory is available under Section 46 of the Banking Law in the context of medium- or long-term bank financing. Non-possessory security interests are also theoretically available in other cases through registration in a national register, which, however, still awaits implementations after several years.

## What is the nature of the insolvency process?

**Bankruptcy (Fallimento)**

Court process leading to (1) an order of the bankruptcy court; or (2) a settlement ("**In-Bankruptcy Composition"** or "**Composition**")

In-Bankruptcy Compositions aim to speed up the bankruptcy process by allowing the debtor, any creditor or third party to acquire the assets and liabilities of the bankrupt's estate.

**Prebankruptcy composition (Concordato Preventivo)**

Court process by which the debtor discharges its debts and avoids bankruptcy

The debtor submits a plan that may provide for (1) sale of the business, (2) restructuring of existing debts or (3) discharge of existing debts on terms set out in the plan.

The plan must grant the payment of at least 20% of the unsecured creditors' claims. This provision does not apply to creditor proposals ("**Concordato**") that contemplate business continuation.

The debtor can apply to convert the process into a debt restructuring arrangement at any time.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

**Debt restructuring arrangement**

Court process by which a prepackaged restructuring arrangement or plan is sanctioned and made binding upon all creditors

An arrangement may involve the sale of the business (subject to court approval).

**Turnaround plan**

An out-of-court process by which a debtor's debts are restructured

**Extraordinary administration (Amministrazione Straordinaria)**

Court process comprising (1) declaration of state of insolvency; and (2) either (a) commencement of extraordinary administration or (b) adjudication in bankruptcy

This is aimed at restructuring large insolvent companies and maintaining the debtor as a going concern to protect the business and its employees but may end in liquidation.

Shortened proceedings are possible in circumstances where creditors accept a settlement proposal (Marzano proceedings). If a Marzano proposal fails, the process may be converted into bankruptcy.

## What is the solvency requirement for a company to file a case in this jurisdiction?

**Bankruptcy (Fallimento)**

Available for insolvent entities, i.e., those that are unable to regularly meet their financial obligations

It is worth pointing out that the insolvency law reform that will enter in force in Italy in May 2022 (see below) will introduce a clear distinction between the "state of crisis" and the "state of insolvency."

According to the new bankruptcy law, the "state of crisis" is the economic and financial imbalance that makes it likely that the debtor will become insolvent in the future. Such a state of crisis may particularly be reflected in the inadequacy of the cash flows necessary to regularly meet the company's future and already planned obligations. In more detail, the indicator of the imbalance situation is represented by the nonsustainability of the debts for the following six months and the absence of a prospect of business continuity for the ongoing financial year.

On the other side, "insolvency" will continue to identify the state of a company that is no longer able to regularly meet its existing or current obligations.

**Prebankruptcy composition (Concordato Preventivo)**

A debtor must be in "a state of crisis" (suffering from illiquidity). State of crisis means a potential (but still not actual) insolvency. Insolvency (the incapacity to regularly perform obligations) can be temporary (if due to specific, incidental reasons) or long-term (if it lasts for a long time and it is due to structural reasons).

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

**Debt restructuring arrangement**

Available where a debtor is in a "state of crisis" but has sufficient assets to pay dissenting creditors in full.

**Turnaround plan**

Available where a debtor is in a temporary "state of crisis" (e.g., short-term cash-flow insolvency).

Note: The debtor is also entitled to obtain urgent interim finance necessary to operate in the usual course of business without having to file a certification issued by an independent expert.

A request is made to court with a decision provided no later than 10 days from filing after having heard the opinion of the judicial commissioner and, if necessary, the main creditors.

The debtor must specify the purpose of the interim finance and declare that (1) there are no alternative sources of financing and (2) failure to obtain such financing would cause imminent and irreparable harm to its business.

Any lender claim will prioritize the existing creditors' in the case of bankruptcy (Prededucibili).

**Extraordinary administration (Amministrazione Straordinaria)**

Available where a debtor is suffering short-term liquidity issues but where the financial position may be resolved through (1) the sale of its assets or undertaking or (2) through a restructuring plan.

## Is there a requirement to demonstrate COMI ("centre of main interests") for a company to file a case in this country?

**Bankruptcy (Fallimento)**

Yes

**Prebankruptcy composition (Concordato Preventivo)**

Yes

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

Yes

**Extraordinary administration (Amministrazione Straordinaria)**

Yes

## Is restructuring of both secured and unsecured claims possible?

**Bankruptcy (Fallimento)**

**Bankruptcy Procedure:** No

**In-Bankruptcy Procedure:** Yes

The proposal may provide for a write-down of secured creditors' claims, but claims must not be written down to less than the best achievable value of a security. The value that can be reached over a security depends on the amount of proceeds of the sale and on the type and degree of security, but there is not strictly best achievable security in general. Regarding the nature of the privilege and degree of security, a mortgage is, in theory, the best security.

**Prebankruptcy composition (Concordato Preventivo)**

No. However, unsecured creditors' claims may be restructured the majority in value of the unsecured creditors (or, if divided into classes, the majority in value of the creditors in a class) approved.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

Yes. Subject to the approval of 60% in the value of secured and unsecured creditors.

Note: Claims of dissenting creditors (secured and unsecured) must be satisfied in full (except for the specific circumstances set out under Article 182-septies of the Bankruptcy Code in which the effects of the agreement may be extended to dissenting creditors – see below).

**Extraordinary administration (Amministrazione Straordinaria)**

**Liquidation**: N/A

**Composition**: Yes

## Are the claims of creditors and shareholders put into separate classes for purposes of voting and treatment under the plan or scheme?

**Bankruptcy (Fallimento)**

**Liquidation:** N/A

**In-Bankruptcy Petition**: Yes

Unsecured creditors and secured creditors who have waived their right to security may vote. Those with security or any conflict of interest may not vote.

**Prebankruptcy composition (Concordato Preventivo)**

Yes. Unsecured creditors (including any secured creditor for a portion of any unpaid secured claim) may be divided into classes for voting purposes. Commonly, creditors are classed as follows: (1) banks, (2) suppliers, and (3) intercompany creditors.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

No

**Extraordinary administration (Amministrazione Straordinaria)**

**Liquidation**: N/A

**Composition**: Yes. Creditors' claims are classed according to "economic interest," commonly in the following classes: (1) banks, (2) suppliers, and (3) intercompany creditors.

## Is shareholder approval needed to commence a case? Are shareholders entitled to vote on a plan?

**Bankruptcy (Fallimento)**

**Liquidation**: N/A

**In-Bankruptcy Composition**: No

**Prebankruptcy composition (Concordato Preventivo)**

No

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

No

**Extraordinary administration (Amministrazione Straordinaria)**

No

## Is there an ability to bind minority dissenting creditors (i.e., cramdown)?

**Bankruptcy (Fallimento)**

**Liquidation**: N/A

**In-Bankruptcy Composition**: Yes

Dissenting creditors are bound if required creditor approvals are obtained.

**Prebankruptcy composition (Concordato Preventivo)**

Yes. The bankruptcy court can confirm a prebankruptcy composition as long as (1) no more than 20% of creditors in a particular class dissent the debtor proposal and (2) the court is satisfied creditors would not receive better treatment under alternative proceedings (e.g., bankruptcy).

Note: Creditors representing at least 10% of the value of all creditors can make an application to the court for alternative proceedings. This cannot be done if the independent expert attests that the debtor proposal grants the payment of at least 40% of unsecured creditors (or 30% in case of a business continuity composition, in which there is a continuation of the business by the debtor or by a third party, or the sale of the business as a going concern). Note: Creditors representing at least 20% of the value of all secured creditors who are not paid in full may challenge the prebankruptcy composition even if approved by the required majority.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

**Debt restructuring arrangement**: Yes, in the circumstances involving banks or financial intermediaries. Moreover, the new Article 182-septies of the Italian Bankruptcy Law (as amended by Law Decree no. 118/2021) provides that, under some circumstances, the effects of the debt restructuring arrangement can be extended to creditors that are not party to the agreement and belong to the same class, provided that their claims in the aggregate represent no more than 25% of the claims of the creditors belonging to the same class.

**Turnaround plan**: No

**Extraordinary administration (Amministrazione Straordinaria)**

**Liquidation**: N/A

**Composition**: Yes. Dissenting creditors are bound if required creditor approvals are obtained.

# Commencing the Process

## Who can commence?

**Bankruptcy (Fallimento)**

(1) Debtor, (2) any creditor(s) or (3) the Public Prosecutor

**Prebankruptcy composition (Concordato Preventivo)**

(1) Debtor

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

(1) Debtor

**Extraordinary administration (Amministrazione Straordinaria)**

**Prodi-bis proceedings**: (1) debtor, (2) any creditor(s) or (3) the public prosecutor

**Marzano proceedings**: (1) debtor

Both Marzano and Prodi-bis proceedings are extraordinary administration proceedings.

## Is shareholder's consent required to commence proceeding?

**Bankruptcy (Fallimento)**

No

**Prebankruptcy composition (Concordato Preventivo)**

No, unless (1) a reduction of capital or (2) a debt-to-equity swap is proposed.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

No, unless (1) a reduction of capital or (2) a debt-to-equity swap is proposed.

**Extraordinary administration (Amministrazione Straordinaria)**

No

## Is there an ability to consolidate group estates?

**Bankruptcy (Fallimento)**

No

**Prebankruptcy composition (Concordato Preventivo)**

No

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

No

**Extraordinary administration (Amministrazione Straordinaria)**

No

## Is there any court involvement?

**Bankruptcy (Fallimento)**

There is a limited amount of court involvement

The process is supervised by the court.

**Prebankruptcy composition (Concordato Preventivo)**

There is a limited amount of court involvement

The process is supervised by the court, which also confirms the prebankruptcy composition.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

There is a limited amount of court involvement

**Debt restructuring arrangement**: The debt restructuring arrangement must be approved by the court.

**Turnaround plan**: N/A

**Extraordinary administration (Amministrazione Straordinaria)**

There is a heightened amount of court involvement

The process is supervised by the court and the Ministry of Economical Development.

## Who manages the debtor?

**Bankruptcy (Fallimento)**

The bankruptcy receiver (appointed by the bankruptcy court)

**Prebankruptcy composition (Concordato Preventivo)**

Debtor management retains its powers under the supervision of the judicial commissioner (later a judicial liquidator) appointed by the bankruptcy court.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

Debtor management retains its powers.

**Extraordinary administration (Amministrazione Straordinaria)**

Debtor management retains its powers in certain circumstances (e.g., when the debtor can resolve its insolvency issues through a restructuring). Where this is impossible, three extraordinary commissioners will be appointed by the bankruptcy court.

## What is level of disclosure of process to voting creditors?

**Bankruptcy (Fallimento)**

**Liquidation**: N/A

**In-Bankruptcy Composition**: Information is provided to creditors to ensure voting on proposals is made on an informed basis.

**Prebankruptcy composition (Concordato Preventivo)**

A pre-bankruptcy petition must contain an independent expert's opinion confirming the feasibility of the plan and accounting data.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

Debt restructuring arrangement and turnaround plans contain an independent expert's opinion confirming the feasibility of the plan.

**Extraordinary administration (Amministrazione Straordinaria)**

An Extraordinary Administration Petition to court must contain financial and company information.

If a proposed settlement is put forward by a third party and does not provide for payment of secured creditors in full, evidence of the market value of security (and the corresponding write-down of security) must be submitted.

## What entities are excluded from customary insolvency or reorganisation proceedings, and what legislation applies to them?

**Bankruptcy (Fallimento)**

Insurance companies, credit institutions, cooperative companies (società cooperative), trusts and auditing companies, cooperative consortia (consorzi di cooperative) granting public contracts, mandatory consortia (consorzi obbligatori), farmers, state entities, small businesses

Small businesses are those that:

Have had, in each of the three fiscal years before the date of filing of the petition for bankruptcy or, if less, from the beginning of the business's activity, net equity not exceeding EUR 300,000

Have realized, in each of the three fiscal years before the date of the filing of the petition for bankruptcy or from the beginning of the activity (if less), gross revenues not exceeding EUR 200,000

Owe debts, even if not yet due upon adjudication, not exceeding EUR 500,000

The legislation to be applied depends on the industry and nature of the debtor.

## How long does it generally take for a creditor to commence the procedure?

**Bankruptcy (Fallimento)**

It generally takes a few weeks/months, depending on the competent Court.

**Prebankruptcy composition (Concordato Preventivo)**

It generally takes a few weeks/months, depending on the competent Court.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

It generally takes a few weeks/months, depending on the competent Court.

**Extraordinary administration (Amministrazione Straordinaria)**

N/A

# Effect of Process

## Does debtor remain in possession with continuation of incumbent management control?

**Bankruptcy (Fallimento)**

No. Management powers cease.

**Prebankruptcy composition (Concordato Preventivo)**

Yes, under the supervision of the judicial commissioner and delegated judge.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

Yes, in both a debt restructuring arrangement and a turnaround plan, the debtor remains in possession.

**Extraordinary administration (Amministrazione Straordinaria)**

In certain circumstances, the debtor remains in possession (e.g., when the debtor may resolve its insolvency issues through a restructuring program). However, where this is not possible, the debtor and the proceedings will be managed and controlled by judicial commissioners and the court.

## What is the stay/moratorium regime (if any)? Is the stay or moratorium worldwide?

**Bankruptcy (Fallimento)**

Automatic stay upon adjudication that prevents enforcement of security

Creditors cannot file or continue proceedings, with the partial exception of creditors holding a pledge over movables and who can be authorized to enforce separately. Such stay would apply worldwide in respect to all debtor assets irrespective of where they are located. However, whether or not local courts would accept and enforce such a stay is a different issue and should be assessed under the applicable local law.

**Prebankruptcy composition (Concordato Preventivo)**

Automatic stay upon the publication of the filing request in the Companies Register that prevents enforcement of security

Creditors are unable to file or continue proceedings. Such stay would apply worldwide in respect to all assets of the debtor irrespective of where they are located. However, whether or not local courts would accept and enforce such a stay is a different issue and should be assessed under the applicable local law.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

**Debt restructuring arrangement**: No automatic stay, but a stay may be requested by the debtor.

If requested, a stay prevents the enforcement of security. Creditors are unable to file or continue proceedings.

Such stay would apply worldwide in respect to all debtor assets irrespective of where they are located. However, whether or not local courts would accept and enforce such a stay is a different issue and should be assessed under the applicable local law.

**Turnaround plan**: No automatic stay

**Extraordinary administration (Amministrazione Straordinaria)**

The automatic stay takes effect upon the filing of the Extraordinary Administration petition that prevents the enforcement of security. Creditors are unable to file or continue proceedings.

Such stay would apply worldwide in respect to all debtor assets irrespective of where they are located. However, whether or not local courts would accept and enforce such a stay is a different issue and should be assessed under the applicable local law.

## Is there a provision for debtor in possession or rescuer financing or superpriority or priming financing?

**Bankruptcy (Fallimento)**

N/A

**Prebankruptcy composition (Concordato Preventivo)**

Yes, subject to approval from the bankruptcy court and an independent expert certifying that the new financing is for the benefit of the creditors (as a whole).

**Priority**: 100% superpriority for "new money" as an "expense of the procedure"

This funding is protected from the risk of a clawback from the date of the composition.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

**Debt restructuring arrangement**: Yes, subject to approval from the bankruptcy court and an independent expert certifying that the new financing is for the benefit of the creditors (as a whole).

**Priority**: 100% superpriority for "new money" (not frequently used)

**Turnaround plan**: N/A

**Extraordinary administration (Amministrazione Straordinaria)**

**Liquidation**: N/A

**Composition**: Yes, subject to approval from the bankruptcy court.

**Priority**: 100% superpriority for "new money" (relatively frequently used)

## Can procedure be used to implement a debt-to-equity swap?

**Bankruptcy (Fallimento)**

**Liquidation**: N/A

**In-Bankruptcy composition**: Yes, in accordance with the terms of the plan.

**Prebankruptcy composition (Concordato Preventivo)**

Yes, in accordance with the terms of the plan.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

Yes, in accordance with the terms of the plan.

**Extraordinary administration (Amministrazione Straordinaria)**

Yes, in accordance with the terms of the plan.

## Are third party releases available?

**Bankruptcy (Fallimento)**

**Liquidation**: N/A

**In-Bankruptcy composition**: Yes, in accordance with the terms of the plan.

**Prebankruptcy composition (Concordato Preventivo)**

Yes, in accordance with the terms of the plan.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

Yes, in accordance with the terms of the plan.

Note: Third-party releases will not bind creditors who do not vote in favor of the plan.

**Extraordinary administration (Amministrazione Straordinaria)**

Yes, in accordance with the terms of the plan.

## Are the proceedings recognised abroad?

For judgments rendered abroad concerning restructuring/insolvency proceedings, the competent court of appeal must verify the contents and recognize the judgment, subject to verification that:

The defendant knew of the existence of such proceedings.

The defendant could participate in or object to such proceedings.

The judgment was rendered in accordance with the laws of the foreign country.

The judgment does not violate any Italian public order law.

No proceedings are pending before an Italian court in relation to the same matter.

## Has the UNCITRAL Model Law been adopted?

**Bankruptcy (Fallimento)**

No

**Prebankruptcy composition (Concordato Preventivo)**

No

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

No

**Extraordinary administration (Amministrazione Straordinaria)**

No

## Can a debtor continue to carry on business during insolvency proceedings?

**Bankruptcy (Fallimento)**

Not the same management bodies, but the trustee can and this is actually the default approach now.

**Prebankruptcy composition (Concordato Preventivo)**

Yes, depending on the type of prebankruptcy composition.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

Yes

**Extraordinary administration (Amministrazione Straordinaria)**

No

# Other Factors

## Are there any wrongful or insolvent trading restrictions and what is the directors' liability?

Yes. Wrongful and/or insolvent trading restrictions apply.

**Who can be liable**: directors, general manager, liquidator, statutory auditors (including advisers) and/or lenders (as shadow directors)

**Civil liability**: Directors' delay in requesting the debtor's admission to bankruptcy may be construed as mismanagement.

**Criminal liability**:

Any director who delays filing a petition for bankruptcy commits the crime of "simple bankruptcy" provided that the delay has worsened the debtor's distress. This will result in a fine.

(2) Any director who undertakes "negligent transactions" with the purpose of delaying the declaration of bankruptcy (e.g., the sale of stock below market price)

## What is the order of priority of claims?

**Bankruptcy (Fallimento)**

**Order of distribution**

The order of the distribution of proceeds from the sale of assets is complicated, taking into account the existence of a diverse range of preferences. In general:

**Post-adjudication claims**, i.e., claims created after the adjudication that has precedence over all other claims (crediti prededucibili)

**Preferred/secured creditors**. Ranking differs based on the type of assets and security/preference.

**Prebankruptcy composition (Concordato Preventivo)**

The same rules that apply in bankruptcy also apply if the distribution is lower than what is contemplated in the composition plan, mutatis mutandis. Additionally, liabilities arising from the performance of "urgent acts" during the process that are authorized by the bankruptcy court ranked above post-adjudication claims.

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

N/A

Note that in an ensuing bankruptcy procedure, new finance authorized by the bankruptcy court is granted first ranking priority.

Priority is also granted to claims arising out of the implementation of the plan, provided that such claims were contemplated in the petition and authorized by the bankruptcy court.

**Extraordinary administration (Amministrazione Straordinaria)**

Additionally, debts incurred in the continuation of the business will generally have priority over any other secured and unsecured claims.

## Do pension liabilities have any priority over other unsecured claims?

The debtor has no pension liabilities towards its employees -  in relation to statutory and/or contractual pension entitlements but has to make mandatory contributions to the Italian Social Security Body (INPS).

Employees will receive their full statutory pension entitlement from the INPSItalian Social Security Body (INPS) even if the employer fails to pay mandatory social contributions.

Where an employer makes payments to a private pension fund, insolvency of the debtor may result in the employee (1) receiving only a portion of their additional pension entitlement (if sufficient contributions have been paid) or (2) not receiving any additional entitlement (if contributions have been insufficient). Generally, in the latter case, pension funds will return to the employee contributions that have been deducted from their payroll.

The INPS and/or the private pension fund is entitled to file a claim against the insolvent employer for any contributions it has failed to make, and such claims are granted preferential treatment.

## Is it possible to challenge prior transactions?

**Bankruptcy (Fallimento)**

**Relevant period**: between six months and two years, depending on the nature of the transaction in question

For example:

(1) Deeds executed by the debtor for no consideration may be set aside if created within two years prior to the declaration of bankruptcy.

(2) Guarantees and security granted by the debtor in respect of preexisting debts that have not yet fallen due may be set aside if created within one year prior to the declaration of bankruptcy.

(3) Guarantees and security granted by the debtor in respect of debts that have fallen due may be set aside if created within six months prior to the declaration of bankruptcy.

**Requirements**: preferential payments/transactions made to the prejudice of other creditors

**Exceptions**: There are various exceptions, including (1) payments made or security granted in accordance with the terms of a restructuring plan or (2) payments made in order to obtain services to allow the debtor to access other insolvency procedures.

**Prebankruptcy composition (Concordato Preventivo)**

N/A

**Debt restructuring arrangements/turnaround plans (Accordi di Ristrutturazione dei Debiti/Piani di risanamento)**

**Debt restructuring**:

**Relevant period**: between six months and two years, depending on the nature of the transaction in question

For example:

(1) Deeds executed by the debtor for no consideration may be set aside if created within two years prior to the declaration of bankruptcy.

(2) Guarantees and security granted by the debtor in respect of preexisting debts that have not yet fallen due may be set aside if created within one year prior to the declaration of bankruptcy.

(3) Guarantees and security granted by the debtor in respect of debts that have fallen due may be set aside if created within six months prior to the declaration of bankruptcy.

**Requirements**: preferential payments/transactions made to the prejudice of other creditors

**Exceptions**: There are various exceptions, including (1) payments made or security granted in accordance with the terms of a restructuring plan or (2) payments made in order to obtain services to allow the debtor to access other insolvency procedures.

**Turnaround plans**: N/A

**Extraordinary administration (Amministrazione Straordinaria)**

**Relevant period**: between six months and two years, depending on the nature of the transaction in question

For example:

(1) Deeds executed by the debtor for no consideration may be set aside if created within two years prior to the declaration of bankruptcy.

(2) Guarantees and security granted by the debtor in respect of preexisting debts that have not yet fallen due may be set aside if created within one year prior to the declaration of bankruptcy.

(3) Guarantees and security granted by the debtor in respect of debts that have fallen due may be set aside if created within six months prior to the declaration of bankruptcy.

**Requirements**: preferential payments/transactions made to the prejudice of other creditors

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