EUROPEAN
COMMISSION

Brussels, 20.11.2013
COM(2013) 802 final

2013/0391 (NLE)

Proposal for a

COUNCIL IMPLEMENTING REGULATION

replacing the lists of insolvency proceedings, winding-up proceedings and liquidators in Annexes A, B and C to Regulation (EC) No 1346/2000 on insolvency proceedings

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Annex A to Council Regulation (EC) No 1346/2000 lists the insolvency proceedings referred to in Article 2(a) of the Regulation. Annex B lists the winding-up proceedings referred to in Article 2(c). Annex C lists the liquidators referred to in Article 2(b).

The annexes to Council Regulation (EC) No 1346/2000 were amended lastly by Council Implementing Regulation (EU) No 210/2010 of 25 February 2010.

Lithuania, Ireland, Greece, Luxembourg, Poland and Portugal have notified the Commission in 2013 of further amendments to the lists set out in Annexes A, B and C.

Furthermore Council Regulation (EU) No 517/2013 of 13 May 2013 adapted certain regulations and decisions in different fields including justice, freedom and security, by reason of the accession of the Republic of Croatia as from 1 July 2013.

Regulation (EC) No 1346/2000 should be amended accordingly by this Proposal.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

External consultation was not relevant.

There was no need for impact assessment. Amending the Regulation may have a positive effect on the re-organisation of businesses. It is likely to have a positive or neutral impact on employment.

3. LEGAL ELEMENTS OF THE PROPOSAL

- Summary of the proposed action

The proposal aims at amending the Annexes of Regulation (EC) No 1346/2000 in order to take account of amendments to the domestic insolvency law of Member States.

- Legal basis

The proposal is based on Article 45 of Regulation (EC) No 1346/2000.

- Subsidiarity principle

The proposal falls under the exclusive competence of the European Union. The subsidiarity principle therefore does not apply.

- Proportionality principle

The proposal complies with the proportionality principle for the following reasons:

The Commission Proposal replaces the lists for Lithuania, Ireland, Greece, Luxembourg, Poland and Portugal in Annexes A, B and C to Council Regulation (EC) No 1346/2000 with new lists taking into account the information notified by these Member States.

The Regulation is directly applicable in the Member States and it does not require any implementation measures. It is published in the Official Journal of the European Union, therefore its contents are accessible to all interested parties.

- Choice of instruments

The proposed instrument is a regulation.

Other means would not be adequate for the following reasons:

By virtue of Article 45 of Council Regulation (EC) No 1346/2000, the Annexes to the Regulation can only be amended by the Council on the initiative of Member States or on a proposal by the Commission.

Lithuania, Ireland, Greece, Luxembourg, Poland and Portugal notified the Commission of further amendments to the lists set out in the Annexes. Accordingly, the Commission is proposing to the Council amendments to the Annexes to the Regulation.

Furthermore Council Regulation (EU) No 517/2013 of 13 May 2013 adapted Annexes A, B and C to Council Regulation (EC) No 1346/2000, by reason of the accession of the Republic of Croatia as from 1 July 2013. Accordingly, the Commission is proposing to the Council to codify the Annexes to the Regulation.

4. BUDGETARY IMPLICATION

The proposal has no budgetary implication.

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replacing the lists of insolvency proceedings, winding-up proceedings and liquidators in Annexes A, B and C to Regulation (EC) No 1346/2000 on insolvency proceedings

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings[1], and in particular Article 45 thereof,

Having regard to Council Regulation (EU) No 517/2013 of 13 May 2013 adapting certain regulations and decisions in different fields including justice, freedom and security, by reason of the accession of the Republic of Croatia[2], and in particular Article 1(1)(k),

Having regard to the proposal from the European Commission,

Whereas:

(1) Annexes A, B and C to Regulation (EC) No 1346/2000 list the designations given in the national legislation of the Member States to the proceedings and liquidators to which that Regulation applies. Annex A lists the insolvency proceedings referred to in Article 2(a) of that Regulation. Annex B lists the winding-up proceedings referred to in Article 2(c) of that Regulation and Annex C lists the liquidators referred to in Article 2(b) of that Regulation.

(2) On 5 February 2013, Lithuania notified the Commission, pursuant to Article 45 of Regulation (EC) No 1346/2000, of amendments to the lists set out in Annexes A and C to that Regulation.

(3) On 11 March 2013, Ireland notified the Commission, pursuant to Article 45 of Regulation (EC) No 1346/2000, of amendments to the lists set out in Annexes A and C to that Regulation.

(4) On 25 March 2013, Greece notified the Commission, pursuant to Article 45 of Regulation (EC) No 1346/2000, of amendments to the lists set out in Annexes A, B and C to that Regulation.

(5) On 25 March 2013, Luxembourg notified the Commission, pursuant to Article 45 of Regulation (EC) No 1346/2000, of amendments to the lists set out in Annexes A, B and C to that Regulation.

(6) On 26 April 2013, Poland notified the Commission, pursuant to Article 45 of Regulation (EC) No 1346/2000, of amendments to the lists set out in Annexes A and B to that Regulation.

[1] OJ L 160, 30.6.2000, p.1.
[2] OJ L 158, 10.6.2013, p.1.

(7) On 22 May 2013, Portugal notified the Commission, pursuant to Article 45 of Regulation (EC) No 1346/2000, of amendments to the lists set out in Annexes A, B and C to that Regulation.

(8) The United Kingdom and Ireland are bound by Regulation (EC) No 1346/2000 and, by virtue of Article 45 of that Regulation, are therefore taking part in the adoption and application of this Regulation.

(9) In accordance with Articles 1 and 2 of the Protocol on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(10) Annexes A, B and C to Regulation (EC) No 1346/2000 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes A, B and C to Regulation (EC) No 1346/2000 are replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the Council
The President

ANNEX

Annexes A, B and C to Regulation (EC) No 1346/2000 are replaced by the following:

"ANNEX A

Insolvency proceedings referred to in Article 2(a)

BELGIQUE/BELGIË

— Het faillissement/La faillite,

— De gerechtelijke reorganisatie door een collectief akkoord/La réorganisation judiciaire par accord collectif,

— De gerechtelijke reorganisatie door overdracht onder gerechtelijk gezag/La réorganisation judiciaire par transfert sous autorité de justice,

— De collectieve schuldenregeling/Le règlement collectif de dettes,

— De vrijwillige vereffening/La liquidation volontaire,

— De gerechtelijke vereffening/La liquidation judiciaire,

— De voorlopige ontneming van beheer, bepaald in artikel 8 van de faillissementswet/Le dessaisissement provisoire, visé à l'article 8 de la loi sur les faillites,

БЪЛГАРИЯ

— Производство по несъстоятелност,

ČESKÁ REPUBLIKA

— Konkurs,

— Reorganizace,

— Oddlužení,

DEUTSCHLAND

— Das Konkursverfahren,

— Das gerichtliche Vergleichsverfahren,

— Das Gesamtvollstreckungsverfahren,

— Das Insolvenzverfahren,

EESTI

— Pankrotimenetlus,

ÉIRE/IRELAND

— Compulsory winding-up by the court,

— Bankruptcy,

— The administration in bankruptcy of the estate of persons dying insolvent,

— Winding-up in bankruptcy of partnerships,

— Creditors' voluntary winding-up (with confirmation of a court),

— Arrangements under the control of the court which involve the vesting of all or part of the property of the debtor in the Official Assignee for realisation and distribution,

— Company examinership,

— Debt Relief Notice,

— Debt Settlement Arrangement,

— Personal Insolvency Arrangement,

ΕΛΛΑΔΑ

— Η πτώχευση,

— Η ειδική εκκαθάριση εν λειτουργία,

— Σχέδιο αναδιοργάνωσης,

— Απλοποιημένη διαδικασία επί πτωχεύσεων μικρού αντικειμένου,

ESPAÑA

— Concurso,

FRANCE

— Sauvegarde,

— Redressement judiciaire,

— Liquidation judiciaire,

HRVATSKA

— Stečajni postupak,

ITALIA

— Fallimento,

— Concordato preventivo,

— Liquidazione coatta amministrativa,

— Amministrazione straordinaria,

ΚΥΠΡΟΣ

— Υποχρεωτική εκκαθάριση από το Δικαστήριο,

— Εκούσια εκκαθάριση από πιστωτές κατόπιν Δικαστικού Διατάγματος,

— Εκούσια εκκαθάριση από μέλη,

— Εκκαθάριση με την εποπτεία του Δικαστηρίου,

— Πτώχευση κατόπιν Δικαστικού Διατάγματος,

— Διαχείριση της περιουσίας προσώπων που απεβίωσαν αφερέγγυα,

LATVIJA

— Tiesiskās aizsardzības process,

— Juridiskās personas maksātnespējas process,

— Fiziskās personas maksātnespējas process,

LIETUVA

— Įmonės restruktūrizavimo byla,

— Įmonės bankroto byla,

— Įmonės bankroto procesas ne teismo tvarka,

— Fizinio asmens bankroto byla,

LUXEMBOURG

— Faillite,

— Gestion contrôlée,

— Concordat préventif de faillite (par abandon d'actif),

— Régime spécial de liquidation du notariat,

— Procédure de règlement collectif des dettes dans le cadre du surendettement,

MAGYARORSZÁG

— Csődeljárás,

— Felszámolási eljárás,

MALTA

— Xoljiment,

— Amministrazzjoni,

— Stralċ volontarju mill-membri jew mill-kredituri,

— Stralċ mill-Qorti,

— Falliment f'każ ta' negozjant,

NEDERLAND

— Het faillissement,

— De surséance van betaling,

— De schuldsaneringsregeling natuurlijke personen,

ÖSTERREICH

— Das Konkursverfahren (Insolvenzverfahren),

— Das Sanierungsverfahren ohne Eigenverwaltung (Insolvenzverfahren),

— Das Sanierungsverfahren mit Eigenverwaltung (Insolvenzverfahren),

— Das Schuldenregulierungsverfahren,

— Das Abschöpfungsverfahren,

— Das Ausgleichsverfahren,

POLSKA

— Postępowanie naprawcze,

— Upadłość obejmująca likwidację,

— Upadłość z możliwością zawarcia układu,

PORTUGAL

— Processo de insolvência,

— Processo especial de revitalização,

ROMÂNIA

— Procedura insolvenței,

— Reorganizarea judiciară,

— Procedura falimentului,

SLOVENIJA

— Stečajni postopek,

— Skrajšani stečajni postopek,

— Postopek prisilne poravnave,

— Prisilna poravnava v stečaju,

SLOVENSKO

— Konkurzné konanie,

— Reštrukturalizačné konanie,

SUOMI/FINLAND

— Konkurssi/konkurs,

— Yrityssaneeraus/företagssanering,

SVERIGE

— Konkurs,

— Företagsrekonstruktion,

UNITED KINGDOM

— Winding-up by or subject to the supervision of the court,

— Creditors' voluntary winding-up (with confirmation by the court),

— Administration, including appointments made by filing prescribed documents with the court,

— Voluntary arrangements under insolvency legislation,

— Bankruptcy or sequestration.

ANNEX B

Winding-up proceedings referred to in Article 2(c)

BELGIQUE/BELGIË

— Het faillissement/La faillite,

— De vrijwillige vereffening/La liquidation volontaire,

— De gerechtelijke vereffening/La liquidation judiciaire,

— De gerechtelijke reorganisatie door overdracht onder gerechtelijk gezag/La réorganisation judiciaire par transfert sous autorité de justice,

БЪЛГАРИЯ

— Производство по несъстоятелност,

ČESKÁ REPUBLIKA

— Konkurs,

DEUTSCHLAND

— Das Konkursverfahren,

— Das Gesamtvollstreckungsverfahren,

— Das Insolvenzverfahren,

EESTI

— Pankrotimenetlus,

ÉIRE/IRELAND

— Compulsory winding-up,

— Bankruptcy,

— The administration in bankruptcy of the estate of persons dying insolvent,

— Winding-up in bankruptcy of partnerships,

— Creditors' voluntary winding-up (with confirmation of a court),

— Arrangements under the control of the court which involve the vesting of all or part of the property of the debtor in the Official Assignee for realisation and distribution,

ΕΛΛΑΔΑ

— Η πτώχευση

— Η ειδική εκκαθάριση

— Απλοποιημένη διαδικασία επί πτωχεύσεων μικρού αντικειμένου

ESPAÑA

— Concurso,

FRANCE

— Liquidation judiciaire,

HRVATSKA

— Stečajni postupak,

ITALIA

— Fallimento,

— Concordato preventivo con cessione dei beni,

— Liquidazione coatta amministrativa,

— Amministrazione straordinaria con programma di cessione dei complessi aziendali,

— Amministrazione straordinaria con programma di ristrutturazione di cui sia parte integrante un concordato con cessione dei beni,

ΚΥΠΡΟΣ

— Υποχρεωτική εκκαθάριση από το Δικαστήριο,

— Εκκαθάριση με την εποπτεία του Δικαστηρίου,

— Εκούσια εκκαθάριση από πιστωτές (με την επικύρωση του Δικαστηρίου),

— Πτώχευση,

— Διαχείριση της περιουσίας προσώπων που απεβίωσαν αφερέγγυα,

LATVIJA

— Juridiskās personas maksātnespējas process,

— Fiziskās personas maksātnespējas process,

LIETUVA

— Įmonės bankroto byla,

— Įmonės bankroto procesas ne teismo tvarka,

LUXEMBOURG

— Faillite,

— Régime spécial de liquidation du notariat,

— Liquidation judiciaire dans le cadre du surendettement,

MAGYARORSZÁG

— Felszámolási eljárás,

MALTA

— Stralċ volontarju,

— Stralċ mill-Qorti,

— Falliment inkluż il-ħruġ ta' mandat ta' qbid mill-Kuratur f'każ ta' negozjant fallut,

NEDERLAND

— Het faillissement,

— De schuldsaneringsregeling natuurlijke personen,

ÖSTERREICH

— Das Konkursverfahren (Insolvenzverfahren),

POLSKA

— Upadłość obejmująca likwidację,

PORTUGAL

— Processo de insolvência,

ROMÂNIA

— Procedura falimentului,

SLOVENIJA

— Stečajni postopek,

— Skrajšani stečajni postopek,

SLOVENSKO

— Konkurzné konanie,

SUOMI/FINLAND

— Konkurssi/konkurs,

SVERIGE

— Konkurs,

UNITED KINGDOM

— Winding-up by or subject to the supervision of the court,

— Winding-up through administration, including appointments made by filing prescribed documents with the court,

— Creditors' voluntary winding-up (with confirmation by the court),

— Bankruptcy or sequestration.

ANNEX C

Liquidators referred to in Article 2(b)

BELGIQUE/BELGIË

— De curator/Le curateur,

— De gedelegeerd rechter/Le juge-délégué,

— De gerechtsmandataris/Le mandataire de justice,

— De schuldbemiddelaar/Le médiateur de dettes,

— De vereffenaar/Le liquidateur,

— De voorlopige bewindvoerder/L'administrateur provisoire,

БЪЛГАРИЯ

— Назначен предварително временен синдик,

— Временен синдик,

— (Постоянен) синдик,

— Служебен синдик,

ČESKÁ REPUBLIKA

— Insolvenční správce,

— Předběžný insolvenční správce,

— Oddělený insolvenční správce,

— Zvláštní insolvenční správce,

— Zástupce insolvenčního správce,

DEUTSCHLAND

— Konkursverwalter,

— Vergleichsverwalter,

— Sachwalter (nach der Vergleichsordnung),

— Verwalter,

— Insolvenzverwalter,

— Sachwalter (nach der Insolvenzordnung),

— Treuhänder,

— Vorläufiger Insolvenzverwalter,

EESTI

— Pankrotihaldur,

— Ajutine pankrotihaldur,

— Usaldusisik,

ÉIRE/IRELAND

— Liquidator,

— Official Assignee,

— Trustee in bankruptcy,

— Provisional Liquidator,

— Examiner,

— Personal Insolvency Practitioner,

— Insolvency Service,

ΕΛΛΑΔΑ

— Ο σύνδικος,

— Ο εισηγητής,

— Η επιτροπή των πιστωτών,

— Ο ειδικός εκκαθαριστής,

ESPAÑA

— Administradores concursales,

FRANCE

— Mandataire judiciaire,

— Liquidateur,

— Administrateur judiciaire,

— Commissaire à l'exécution du plan,

HRVATSKA

— Stečajni upravitelj,

— Privremeni stečajni upravitelj,

— Stečajni povjerenik,

— Povjerenik,

ITALIA

— Curatore,

— Commissario giudiziale,

— Commissario straordinario,

— Commissario liquidatore,

— Liquidatore giudiziale,

ΚΥΠΡΟΣ

— Εκκαθαριστής και Προσωρινός Εκκαθαριστής,

— Επίσημος Παραλήπτης,

— Διαχειριστής της Πτώχευσης,

— Εξεταστής,

LATVIJA

— Maksātnespējas procesa administrators,

LIETUVA

— Bankroto administratorius,

— Restruktūrizavimo administratorius,

LUXEMBOURG

— Le curateur,

— Le commissaire,

— Le liquidateur,

— Le conseil de gérance de la section d'assainissement du notariat,

— Le liquidateur dans le cadre du surendettement,

MAGYARORSZÁG

— Vagyonfelügyelő,

— Felszámoló,

MALTA

— Amministratur Proviżorju,

— Riċevitur Uffiċjali,

— Stralċjarju,

— Manager Speċjali,

— Kuraturi f'każ ta' proċeduri ta' falliment,

NEDERLAND

— De curator in het faillissement,

— De bewindvoerder in de surséance van betaling,

— De bewindvoerder in de schuldsaneringsregeling natuurlijke personen,

ÖSTERREICH

— Masseverwalter,

— Sanierungsverwalter,

— Ausgleichsverwalter,

— Besonderer Verwalter,

— Einstweiliger Verwalter,

— Sachwalter,

— Treuhänder,

— Insolvenzgericht,

— Konkursgericht,

POLSKA

— Syndyk,

— Nadzorca sądowy,

— Zarządca,

PORTUGAL

— Administrador de insolvência,

— Administrador judicial provisório,

ROMÂNIA

— Practician în insolvență,

— Administrator judiciar,

— Lichidator,

SLOVENIJA

— Upravitelj prisilne poravnave,

— Stečajni upravitelj,

— Sodišče, pristojno za postopek prisilne poravnave,

— Sodišče, pristojno za stečajni postopek,

SLOVENSKO

— Predbežný správca,

— Správca,

SUOMI/FINLAND

— Pesänhoitaja/boförvaltare,

— Selvittäjä/utredare,

SVERIGE

— Förvaltare,

— Rekonstruktör,

UNITED KINGDOM

— Liquidator,

— Supervisor of a voluntary arrangement,

— Administrator,

— Official Receiver,

— Trustee,

— Provisional Liquidator,

— Judicial factor.