PROTECTING AGAINST INSOLVENCY - PBBR

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Portugal's new Special Revitalisation Procedure offers a lifeline to companies in distress, potentially saving them from going under - pbbr

Distressed Portuguese companies hoping to start a new phase have been helped by the local somehow equivalent of the US Chapter 11 insolvency protection. This has been thanks to a new process called the 'Special Revitalisation Procedure', or 'PER'.
PER came into effect in April 2012, and Pedro Pinto, Founding Partner at pbbr in Lisbon, explains that it offers indebted companies creditor protection for a period of around three months. "The procedure is aimed at making it simpler and more direct for viable companies to negotiate with creditors in order to avoid insolvency proceedings."
Recently, there has been an uptake of companies seeking protection to try to sort out a financial recovery plan with all or the majority of creditors to avoid insolvency, says Pinto. While PER has been welcomed by troubled businesses, he says that certain problems have arisen. The first is that companies are finding that, despite seeking a rescue package, they still fear the damage to the corporate reputation.
"A PER can be enforced by a court order with the agreement of just one creditor, although the

preferable option is to sign agreements with two thirds of creditors before obtaining the court order," Pinto says. "This shows that the company's creditors are backing the proceedings."

The second challenge is that, at least presently, PERs can only be issued for individual companies. As such, there is not a unified process for a group that runs into difficulty. "Therefore, if a group has two or three companies that need to enter PER," says Pinto, "then each unit has to have its own separate proceedings, with different judges and administrators".

Aside from these issues, it is hoped that PER will prove a safety net for the increasing number of distressed domestic companies.