



PIVOT TO RECOVERY™

THE SWISS DEBT RESTRUCTURING MORATORIUM:
EVOLUTION OF THE NUMBER OF CASES 2019 – 2022



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Introduction

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Context

On a yearly basis, the Swiss Federal Statistical Office (FSO) collects statistics nationally on the number of debt enforcement actions and bankruptcies. Restructurings, or debt restructuring moratorium procedures, as defined by the Swiss Debt Enforcement and Bankruptcy Act (DEBA), are however, not in the scope of FSO's statistics.

With the debt moratorium, a legal framework is provided to enable the successful implementation of restructuring plans/concepts.

Whilst various countries have amended their insolvency regimes in the last couple of years, the last significant revision of the Swiss debt restructuring moratorium dates from 2014. Amongst the various measures to cope with the economic impact of COVID, minor adjustments were put into effect ahead of schedule (especially the extension of the provisional phase of a moratorium).

With its survey of Swiss debt restructuring moratorium procedures, Alvarez & Marsal (A&M) provides unique discussion materials for restructuring practitioners and insights for the further development of the Swiss restructuring procedure.

Comprehensive information on the Swiss debt restructuring moratorium process can be found in [our detailed compendium](#).

Methodology

The data of the present study is based on the official publications in the Swiss Official Gazette of Commerce (SOGC) and is limited to legal entities (excluding sole proprietorships or private individuals). For the analysis of debt restructuring moratorium procedures which were not made public, the authors have collected data directly from the Swiss local bankruptcy courts.

Of the 110 contacted district courts, we have achieved an average response rate of 80% over the observation period from 2019 to 2022. This high response rate enables to robustly draw conclusions from the data. Furthermore, the data was discussed with the majority of administrators who were engaged in the analysed period.

The assignment of a debt restructuring moratorium to a specific year was determined based on the first opening date of the provisional phase (for example, if the provisional phase was granted in 2019 and converted to a definitive composition moratorium in 2020, the case would be counted only in for 2019).



In a nutshell

The Swiss debt restructuring moratorium continues to remain a little-used restructuring instrument.

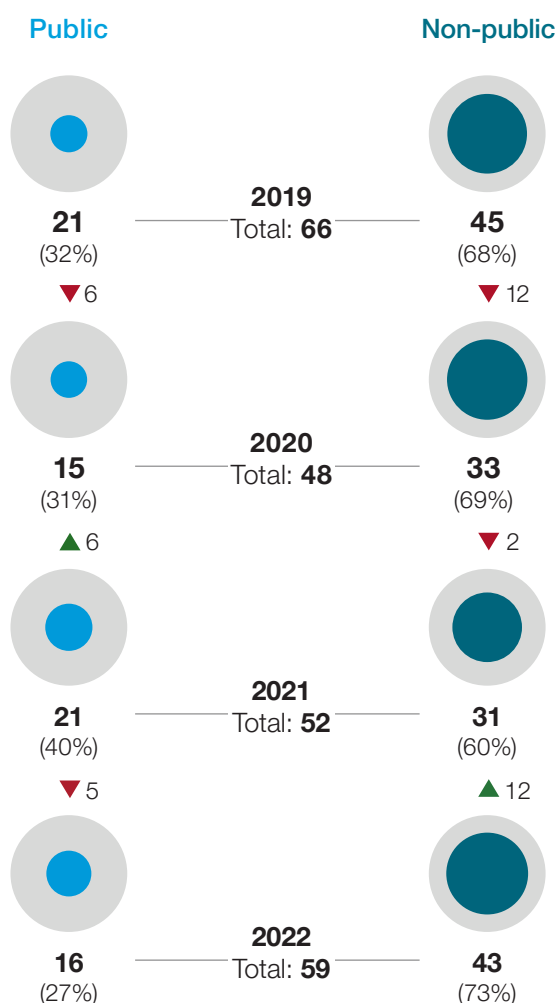
The Swiss debt restructuring moratorium, as defined by the Swiss DEBA, is an in-court procedure which enables companies to initiate or implement restructurings and reorganisation measures.

The utilization of the debt restructuring moratorium remained low during the observation period despite the dual challenges of the COVID-19 pandemic and economic disruptions from war, illustrating the low awareness and the temporal shift until financial collapses.

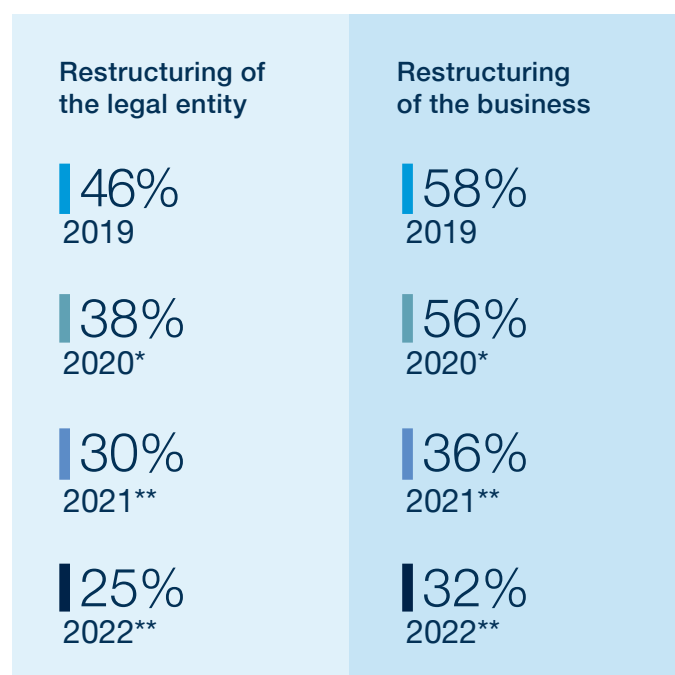
The preference of companies seeking to waive a public announcement (a so-called silent procedure), reached new heights with a share of 73% in 2022, although the law-makers had foreseen this as an exception rule in the revision of 2014.

The authors expect the increase in the number of bankruptcies in 2023 to be also visible in the number of debt restructuring moratoriums, even though these could still represent a low percentage share.

How have the number of procedures evolved between 2019 – 2022?



What is the success rate of the restructuring procedure?



per 31.10.2023

* 9 procedures are not reconcilable

** 2 procedures are still ongoing

*** 22 procedures are still ongoing

The successful resolution of the procedures initiated in 2022 is expected to increase as time passes by, as successful turnarounds generally take more time.

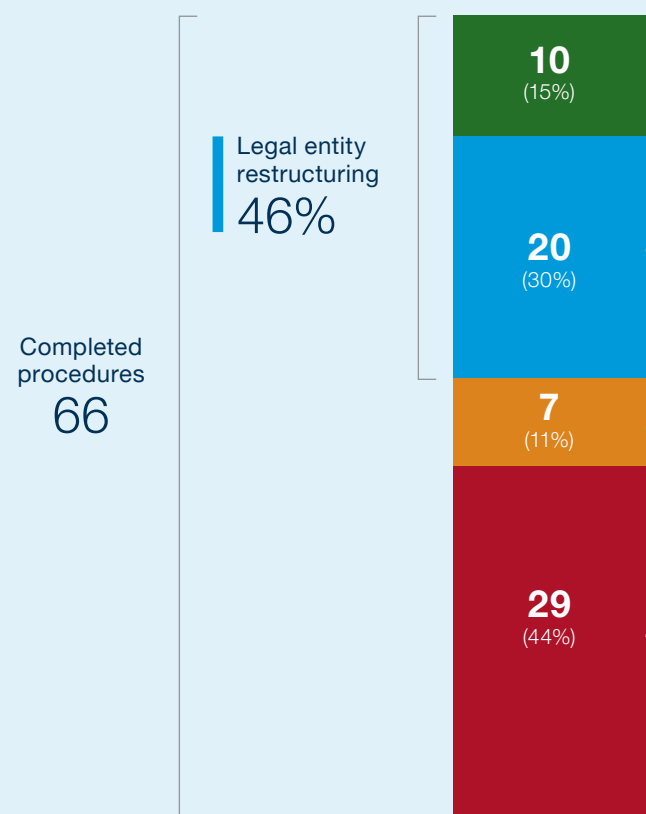
Study results

The following is a summary of the results of the study in terms of procedural outcome for the period from 2019 to 2022. The analyses below reflect the result of the composition proceedings on the debtor company (legal entity), restructuring "in the narrow sense" or on the business (operating unit), restructuring "in the wider sense".

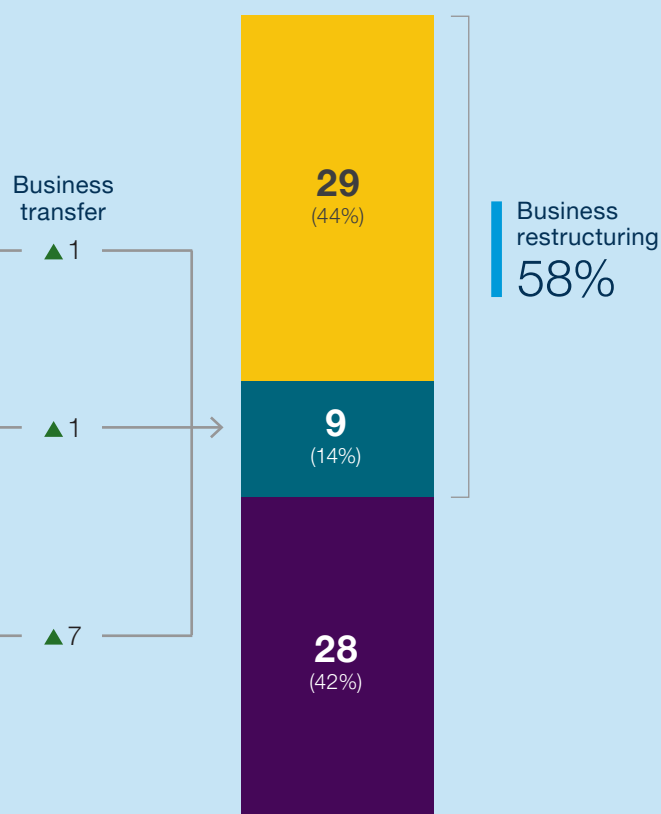
In other words, the reorganization assessments are based either on a legal consideration, if the legal entity will be continued or liquidated, or on a business consideration, if the operating business will be continued or liquidated. As a large proportion of proceedings initiated in 2022 are still ongoing as of October 2023, there are limitations in the analysis of the outcome of proceedings.

2019

Restructuring of the legal entity (legal consideration)

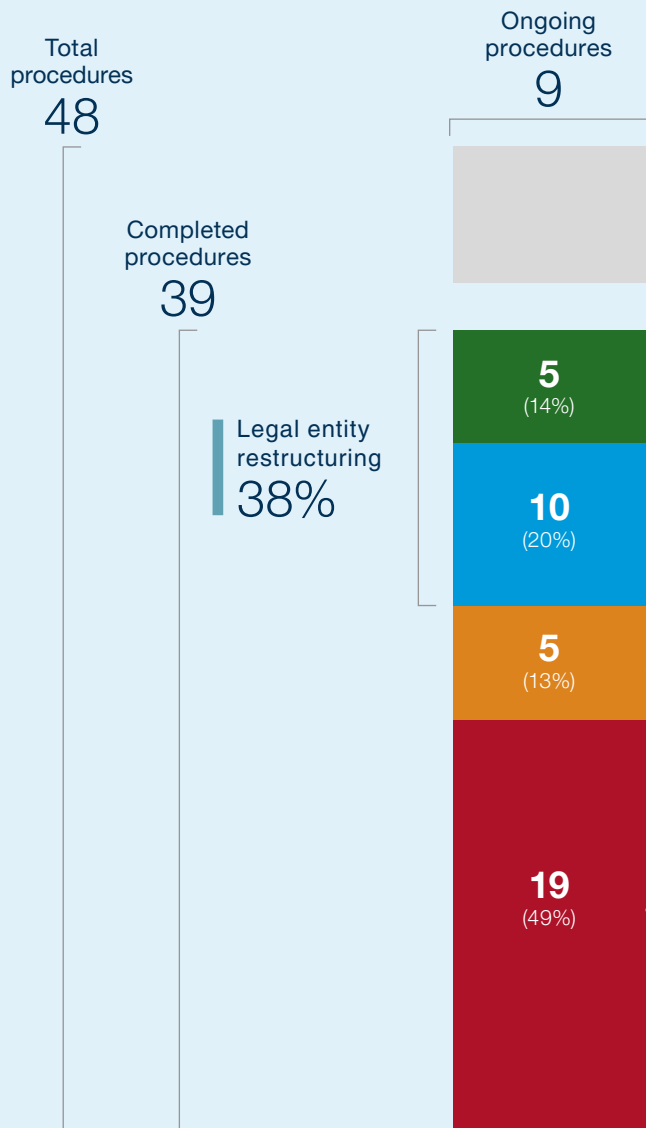
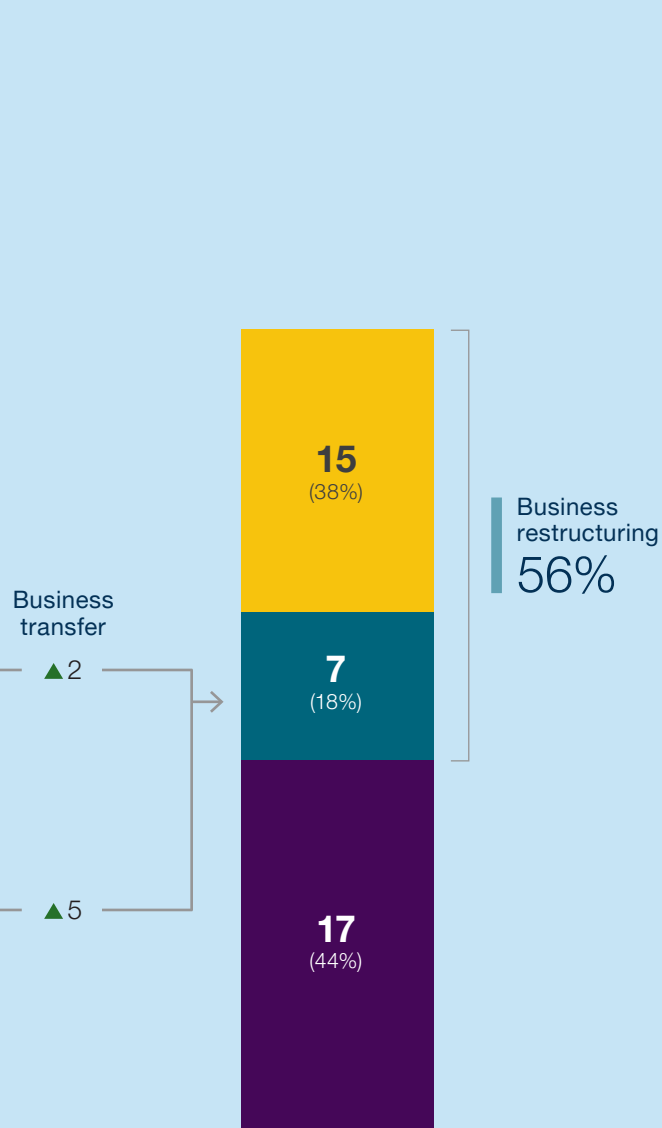


Restructuring of the business (business consideration)



- Restructuring
- Composition agreement with assignment of assets
- Restructuring (narrow sense)
- Discontinuance of business
- Ordinary composition agreement
- Bankruptcy
- Business transfer

2020*

Restructuring of the legal entity
(legal consideration)Restructuring of the business
(business consideration)

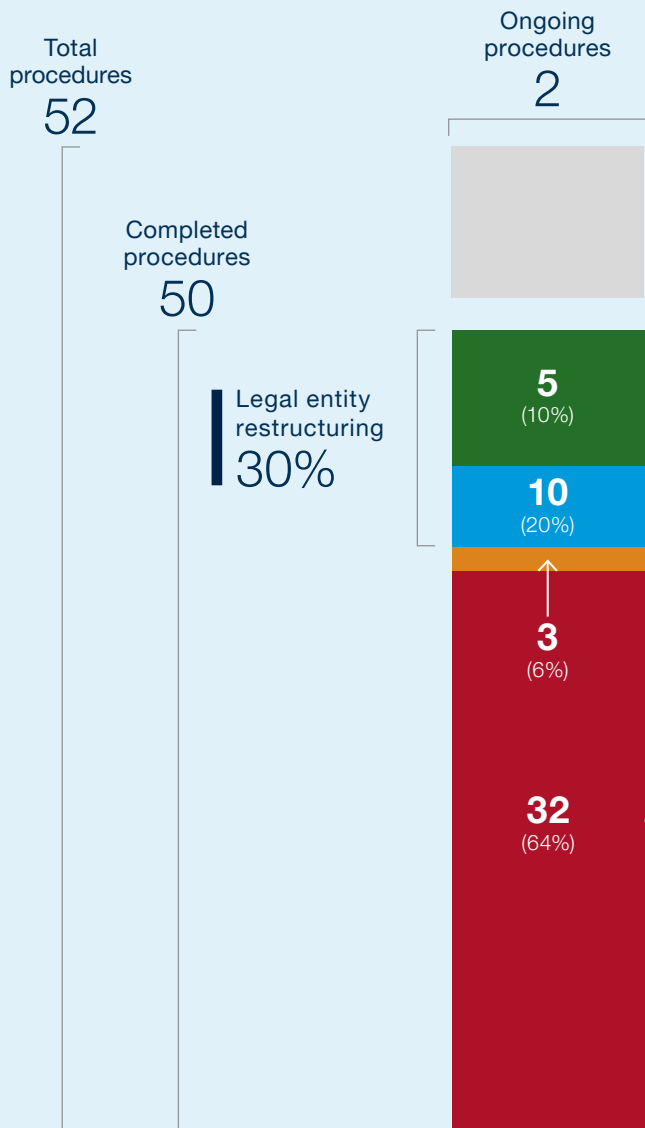
- Restructuring
- Ordinary composition agreement
- Composition agreement with assignment of assets
- Bankruptcy
- Restructuring (narrow sense)
- Business transfer
- Discontinuance of business

Notes

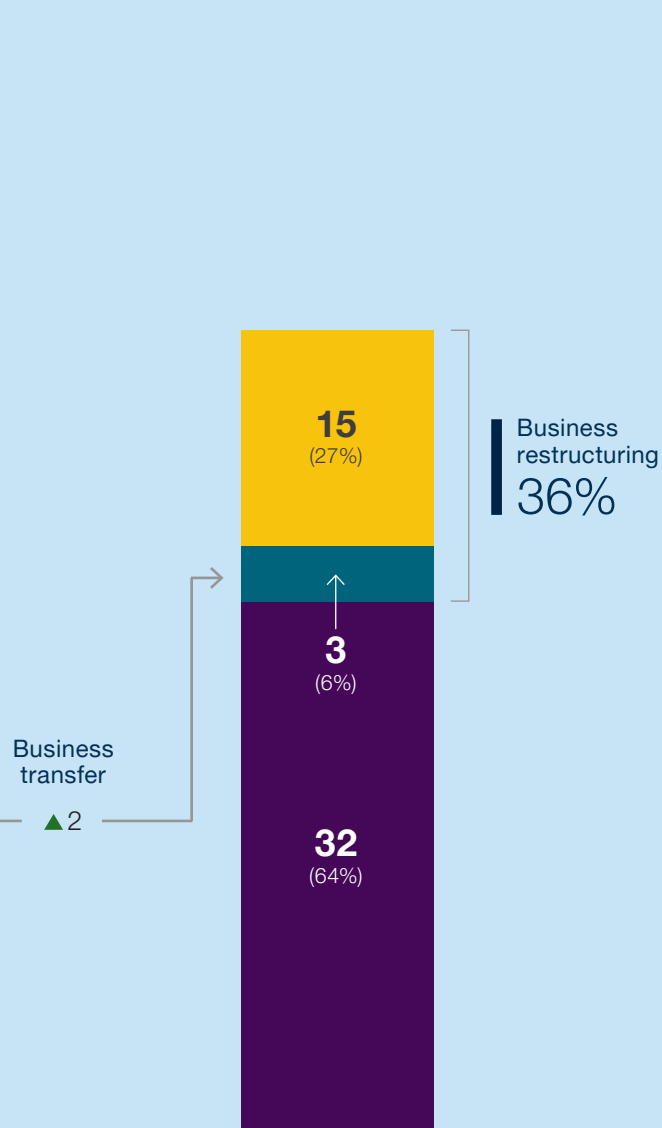
*9 cases that have been provided by the probate courts on an anonymized basis were not reconcilable

2021**

Restructuring of the legal entity (legal consideration)



Restructuring of the business (business consideration)

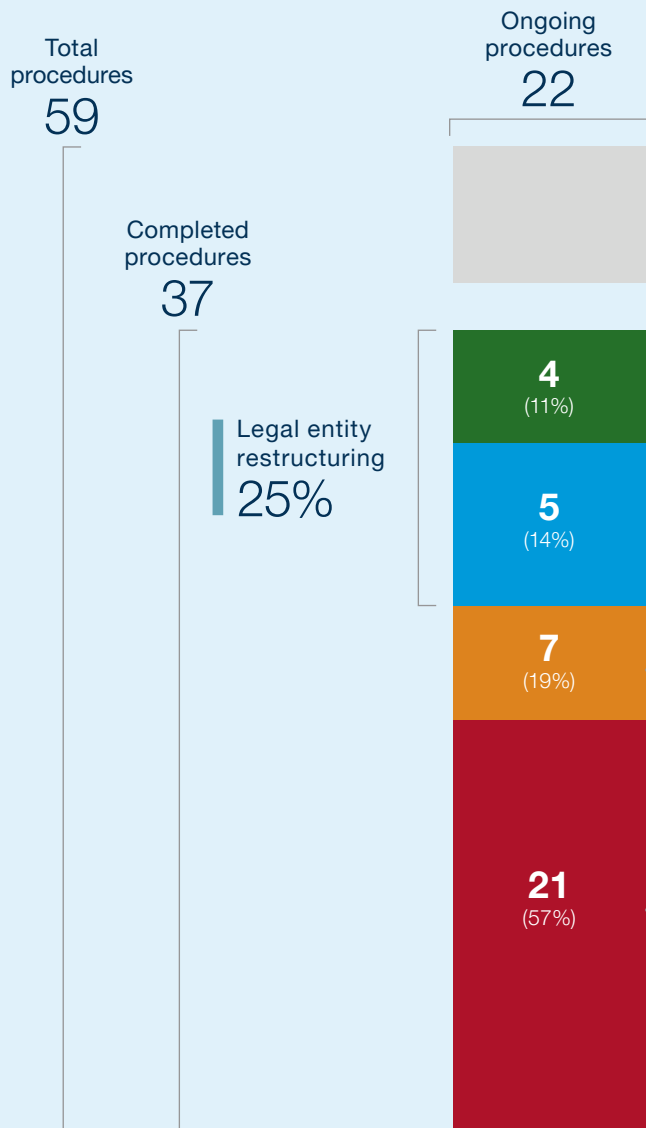
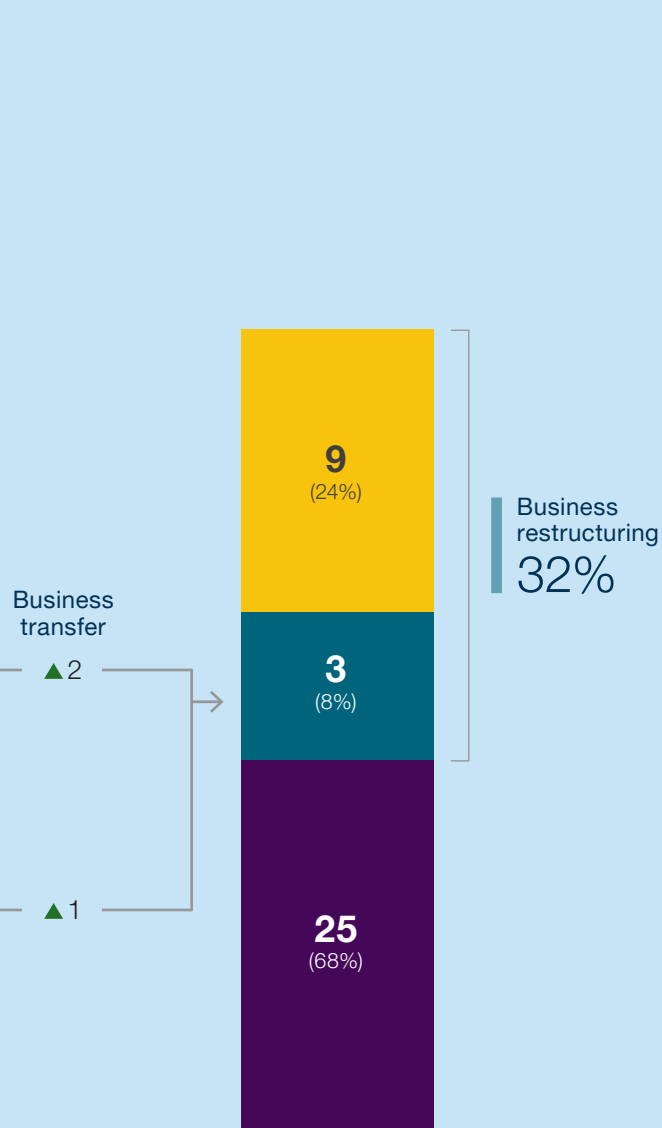


- Restructuring
- Composition agreement with assignment of assets
- Restructuring (narrow sense)
- Discontinuance of business
- Ordinary composition agreement
- Bankruptcy
- Business transfer

Notes

**2 procedures are still ongoing as per 31.10.2023

2022***

Restructuring of the legal entity
(legal consideration)Restructuring of the business
(business consideration)

- Restructuring
- Composition agreement with assignment of assets
- Restructuring (narrow sense)
- Discontinuance of business
- Ordinary composition agreement
- Bankruptcy
- Business transfer

Notes

***22 procedures are still ongoing as per 31.10.2023

The successful resolution of the procedures initiated in 2022 is expected to increase over time, as successful processes typically take more time.

Conclusion

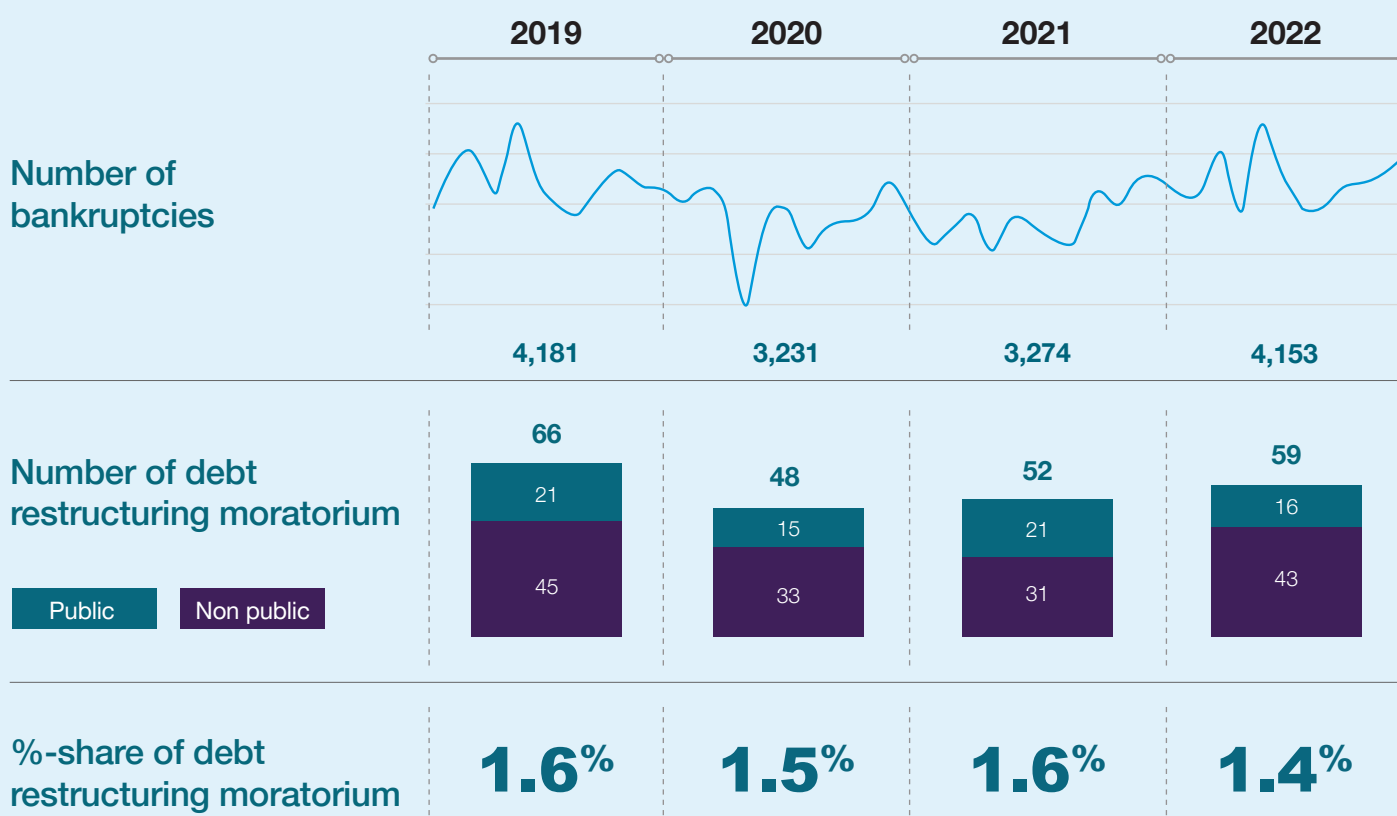
While comprising an average share of 1.5% of the total insolvency cases between 2019 and 2022, the adoption of the debt restructuring moratorium procedure remains notably low in comparison to other countries' rates.

From a business perspective of the outcome of the proceedings, around 55% of the operating businesses could be reorganized/saved in 2019 and 2020. It is noteworthy that there was a dip observed in 2021. This dip could be attributed to the delayed manifestation of the impact of COVID-19, wherein firms with potentially unsustainable business models were temporarily saved by government interventions, only to face financial challenges later on.

The findings underscore the complex interplay between economic circumstances, procedural efficacy, and the need for ongoing evaluation of restructuring mechanisms in adapting to dynamic economic environments.

Amidst the ongoing uncertain economic climate, companies may find the Swiss debt restructuring procedure to be a proactive instrument, allowing them to respond effectively to changing market conditions.

Excursus: How have debt restructuring moratoriums compared to company bankruptcies developed?
(Exclusively legal form of PLC and LLC)



A&M Credentials

Selected credentials of the Swiss team



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Financial advisor of the Federal Finance Administration

A&M acted as sole financial and economic adviser to the Federal Finance Administration (FFA) of the Swiss Confederation in connection with the CHF 9bn Loss Protection Agreement (LPA) provided to UBS Group AG on its takeover of Credit Suisse AG

The team successfully managed to mitigate the potential loss for the Swiss Federation by limiting the LPA to a strict defined perimeter of assets that were to be covered as well as ensuring that initial valuation mark-downs (T0) on the takeover were excluded from the first loss calculations.



FTX

Chapter 11 procedure of cryptocurrency exchange

A&M was appointed global restructuring advisors of FTX to salvage the remaining value of the crypto platform in Chapter 11.

The Swiss team established and oversaw the updating of a short-term cash-flow forecast, estimated the liquidation value, and analyzed potential options for the European sub-holding and its eleven subsidiaries. Following the initiation of a moratorium procedure for the Swiss sub-holding, we provided support to the Swiss administrator and facilitated coordination between the debt moratorium and Chapter 11 procedures in the US



REFORM HAUS

Distressed sale of the company out of bankruptcy (advisor to the bankruptcy administration)

A&M advised the Notary Public Inspectorate of the Canton of Zurich (Mobile Equipe+) as an auxiliary in the preparation and execution of the sale of parts of the business and assets in the bankruptcy proceedings.



Confidential

Hive-off solution for Swiss manufacturer emerging from debt moratorium

We developed business and restructuring options for a Swiss manufacturing company. In response to financial challenges, we facilitated a two-month continuance through bridge financing within a silent debt restructuring moratorium. Concurrently, we conducted an accelerated M&A process involving 40-50 investors within six weeks. As part of a hive-off solution, segments of the business and approximately 50% of employees were transferred. We played a key role in supporting the debt moratorium application, identifying investors, and negotiating favorable terms.



Contacts



A&M: Leadership. Action. Results.

A&M has worked with some of the largest European and global organisations to stabilise financial performance, transform operations and accelerate results through decisive action.

When traditional improvement activities are not enough, A&M's restructuring and turnaround heritage brings factbased, action-oriented leadership to transformation and delivers rapid results.

Our professionals have both operations and advisory experience together with a proven track record in leading businesses through tough, complex situations, often characterised by liquidity and time constraints.

They have deep expertise in distressed business planning, cash forecasting and management, working closely with company management teams and Boards of directors as they address critical challenges. To learn more about our expertise and to understand the full scope of our work please get in touch with one of our key contacts.



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ABOUT ALVAREZ & MARSAL

Companies, investors and government entities around the world turn to Alvarez & Marsal (A&M) for leadership, action and results. Privately held since its founding in 1983, A&M is a leading global professional services firm that provides advisory, business performance improvement and turnaround management services. When conventional approaches are not enough to create transformation and drive change, clients seek our deep expertise and ability to deliver practical solutions to their unique problems.

With over 8,500 people across six continents, we deliver tangible results for corporates, boards, private equity firms, law firms and government agencies facing complex challenges. Our senior leaders, and their teams, leverage A&M's restructuring heritage to help companies act decisively, catapult growth and accelerate results. We are experienced operators, world-class consultants, former regulators and industry authorities with a shared commitment to telling clients what's really needed for turning change into a strategic business asset, managing risk and unlocking value at every stage of growth.

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