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**EXECUTIVE SUMMARY**  
**THE SOLVENCY TEST - A COMPARATIVE LEGAL STUDY**

doctoral thesis prepared under the supervision of Dr hab. Andrzej Herbet, prof. KUL

The subject of the thesis prepared by the author is the solvency test - a legal instrument that conditions the *causa corporationis* payments from limited liability companies upon ascertaining the absence of a negative impact of the payment on the forecasted liquidity of the company, which has recently been incorporated into the Polish legal system in the article 300<sup>15</sup> § 5 of the Commercial Companies Code with reference to a simple joint-stock company (pol. Prosta Spółka Akcyjna).

Considering that the solvency test is originated in the English law, from which it was later adopted by other countries from the common law circle and was developed particularly in the United States, the analysis of the instrument in question was set against the background of comparative law. Legislation of the USA, New Zealand or Australia and European normative regulations based on them adopted in recent decades in Finland, the Netherlands or at the level of the European Union, allow for comparison and review of individual forms of solvency test, as well as the legal background accompanying it.

The basic research thesis of the dissertation is the statement that a properly formed solvency test is a mechanism that effectively protects the interests of a company in the area of corporate payments and strengthens the protection of its creditors' interests. A model of protection that takes into account the necessity of conducting a solvency test also allows to ensure better correlation between the provisions of polish corporate law and insolvency law and to limit the risk of making distributions to shareholder on the verge of bankruptcy, especially when compared to solutions based solely on calculations referring to the company's profit, positive balance-sheet or legal capital maintenance rules. The paper formulates *de lege ferenda* postulate to apply the discussed mechanism to all types of limited liability companies known to the Polish law, based on models functioning e.g., in New Zealand, England or the United States. However, in the scope of analyses conducted in relation to a simple joint-stock company, the thesis indicates that the construction of the solvency test in the form adopted in Article 300<sup>15</sup> § 5 of the Polish Commercial Companies Code is far from optimal, especially against the background of foreign legislation and the systemic context in which it is used. At the same time, the dissertation attempts to decode the polish version of the solvency test, the rules regarding its performance and liability resulting from its infringement, as well as to indicate the direction of necessary corrections and formulate conclusions *de lege ferenda*.