

Welcome to Mackrell Turner Garrett's Focus On Insolvency Practitioners, our quarterly bulletin focusing on insolvency-related news and developments and how Mackrell Turner Garrett's services can be of assistance.

If you have any feedback on this bulletin, or would like to know more about our services or how we can help you, please contact James Atton at our London office on 00 44 (0) 207 240 0521 or at james.atton@mackrell.com or John Dudley at our Woking office on 00 44 (0) 1483 755609 or at john.dudley@mtg.uk.net

EUROPEAN REFORMS 'COULD LEAVE UK BEHIND'

Turnaround specialists have warned that a shadow hangs over the UK's status as a restructuring hub.

The warning came at the annual conference of the UK arm of the Turnaround Management Association (TMA), a non-profit organisation for practitioners in corporate renewal and turnaround management, which took place in London on 14 November.

The conference included a session titled *UK Plc: how do the Europeans see us?* which explored the way reforms to insolvency laws in Europe were, in some ways, overtaking the UK's system and potentially leaving it behind.

A report on the conference published on the TMA's website at www.tma-uk.org said that European companies had often moved their centre of main interest (COMI) to the UK in the past to take advantage of the UK's system, including out-

of-court Schemes of Arrangement and pre-pack administrations.

But accountant and restructuring specialist Stephen Taylor, a pioneer of COMI-shifting companies to the UK, warned delegates: "European countries reacted to COMI-shifting by reforming their laws, whereas the UK has stayed much the same."

He said that although English Schemes were being used outside the UK, they were the "last hurrah" of the English system.

Mr Taylor told delegates he believed that once a creditor succeeded in challenging an English Scheme on a non-UK company, many more would follow, making Schemes unusable as an international restructuring tool and even though challenges so far had been few, this was no guarantee that they would not multiply in the future.

However, Spanish insolvency specialist Luis Martin said the UK had a powerful advantage for the UK in its widely respected judicial system, providing a measure of certainty to international restructurings anchored in London. He said: "You don't have predictability in Spain. A court in Barcelona may come to a completely different decision to a court in Madrid on exactly the same point."

Mackrell Turner Garrett insolvency specialist James Atton said: "As insolvency law in the UK and worldwide continues to evolve, our firm is ideally placed to support insolvency practitioners involved in assignments, in Europe and further afield.

"Alongside our in-house insolvency and legal expertise, we are a member of Mackrell International, giving us access to the knowledge of more than 80 law firms in 110 offices worldwide. For more information about our services, please contact us."



INSOLVENCY RULES IN CONSULTATION SPOTLIGHT

Time is ticking away to the deadline for comments on proposals designed to bring “impenetrable” Insolvency Rules into the 21st century.

The proposed new rules would bring together 23 Statutory Instruments and make common provision for processes, such as meetings of creditors, that apply across different insolvency procedures.

The consultation, titled *Modernisation of rules relating to insolvency law*, are designed to reform the rules that provide a framework for the Insolvency Act 1986. Since they were introduced in 1986, they have been amended over the years to reflect changes in policy, technology and case law.

The Insolvency Service said in its consultation document: “Regular additions and deletions of text at different times have resulted in legislation

which has been criticised in the House of Lords as an ‘impenetrable thicket’.

“Rather than simply consolidating the existing rules and their many amendments, we have been working to modernise and recast the Rules; taking the opportunity to reorder the whole structure on more logical and clear lines. The intention is to deliver a better product to the end users of the Rules.”

The proposals include:

- creating a single set of rules
- reordering the rules on more logical and clearer lines
- using plain English and improving consistency to make the rules easier to understand, and to improve consistency across insolvency procedures
- making it easier for documents to be delivered by electronic means

- removing shareholders and those under a duty to contribute to unpaid share capital – contributories – from the list of people who can be appointed to a liquidation committee.

The Insolvency Service’s deputy chief executive Graham Horne said: “This consultation is a great opportunity for people who use the Rules to help us ensure they are fit for modern needs.” The consultation closes on 24 January 2014.

Mackrell Turner Garrett’s James Atton said: “As a law firm experienced in working with insolvency practitioners, Mackrell Turner Garrett is ideally placed to provide any legal support necessary to IPs, including guidance on the new Insolvency Rules when these are finalised. For more information, please contact us.”

www.mackrell.com



London Office:

James Atton

Partner

Commercial Litigation

E: james.atton@mackrell.com
T: 00 44 (0) 20 7240 0521

Maung Aye

Solicitor

Corporate and Commercial Law

E: maung.aye@mackrell.com
T: 00 44 (0) 20 7240 0521

Woking Office:

John Dudley

Partner

Litigation and Dispute Resolution

E: john.dudley@mtg.uk.net
T: 00 44 (0) 1483 755609