



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](mailto:james.atton@mackrell.com) or John Dudley at our Woking office on 00 44 (0) 1483 755609 or at [john.dudley@mtg.uk.net](mailto:john.dudley@mtg.uk.net)

## EU INSOLVENCY CHANGES TAKE STEP CLOSER

The European Parliament has backed the European Commission's proposal to modernise Europe's rules on cross-border insolvency.

Members of the parliament approved the proposal with a majority of almost 500 votes in February. Member states now need to reach agreement on the draft law, amongst themselves, in the European Council, and with the European Parliament, in order for it to enter the EU's statute book.

"Europe needs modern rules on cross-border insolvency to help service our economic engine. The first option for viable businesses should be to stay afloat rather than liquidating. I am glad to see that the European Parliament agrees," said Vice-President Viviane Reding, the EU's justice commissioner.

"I will continue working closely with the European Parliament and ministers in the

council so that the modernised insolvency rules are adopted swiftly. Businesses are waiting and we have no time to lose."

The new rules, originally proposed by the commission in December 2012 will shift the focus away from liquidation towards a new approach helping businesses to overcome financial difficulties, while at the same time protecting creditors' rights to get their money back.

The proposed law is designed to increase the efficiency and effectiveness of cross-border insolvency proceedings, affecting an estimated 50 000 companies and 1.7 million jobs across the EU every year, as part of a move towards an EU "rescue and recovery" culture to help companies and individuals in financial difficulties.

In order to become law, the commission's proposal needs to

be adopted jointly by the European Parliament and by member states in the European Council.

The council has welcomed the proposal, but is still in the process of discussing the draft law. It is expected that a general agreement will be reached at a meeting in June.

Mackrell Turner Garrett's James Atton said: "In a global economy, cross-border and international insolvency cases are likely to become increasingly common.

"Alongside our insolvency expertise, as a member of Mackrell International we have access to 4,500 member firms in 60 countries worldwide, enabling us to offer insolvency practitioners access to specialist legal advice and support across the European Union and further afield. For more information about our services, please contact us."



## TAX EXPERTS VOICE FEARS OVER HMRC 'BANK RAIDS'

Tax specialists have warned that HM Revenue & Customs (HMRC) could “steal a march on other creditors” as result of a new measure announced in the March 2014 Budget.

The Budget document said that the government would “modernise and strengthen HMRC’s debt collection powers to recover financial assets from the bank accounts of debtors who owe over £1,000 of tax or tax credit debts, have the financial means to pay, and have been contacted multiple times by HMRC to pay.

“A minimum of £5,000 will be left across debtors’ accounts. This brings the UK in line with many other tax authorities which already have the power to recover debts directly from an individual’s account, such as France and the US.”

But the Low Incomes Tax Reform Group (LITRG) – part of the Chartered Institute of Taxation – said it had “strong concerns” about what it described as an “unprecedented” power in the UK.

LITRG chairman Anthony Thomas said: “HMRC say they will only use their new power where debtors ‘have the financial means to pay’ and have been asked for payment many times.

“It is unclear how HMRC will determine whether a debtor has the financial means to pay, or by what criteria this will be judged. People who owe HMRC £1,000 or just over may simply be people on low incomes or low wages who have got into difficulties and are in debt not only to HMRC but also to others, notably public utilities.

“To let HMRC raid their bank accounts without safeguards or recourse to the courts – or with inadequate safeguards – would be to flout the rule of law in a manner unworthy of a public service body.

“To introduce such draconian measures without proper safeguards could well lead to an abuse of power. Besides, it would allow HMRC to steal a march on other creditors in the event of a bankruptcy, something which was abandoned long ago with

the abolition of Crown preference in bankruptcy proceedings.”

An HMRC spokesman told the BBC it would be consulting on a new measure with “appropriate safeguards to help level the playing field, and tackle those who have the means to pay but are choosing not to. This will only affect a tiny number of debtors whom we have contacted a minimum of four times to ask for payment.”

He added that those affected would always have the right to appeal against any move.

Mackrell Turner Garrett insolvency specialist James Atton said: “This is a potentially significant development in insolvency law in the UK and it will be interesting to see the detail set out in the consultation and how they address the issues raised by the LITRG and other tax and accountancy specialists.

“As insolvency law continues to evolve, our experts are ideally placed to support and advise insolvency practitioners. For more information, please contact us.”

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