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BREXIT OR NOT – EUROPE
IS GOING ALL CHAPTER
11-ISH

What does this mean for European restructuring?

23 May 2016

Howard Morris

What they're saying

- *To remain at the forefront of insolvency best practice we also need to ask what a “good” regime looks like in 2016. An increasing international focus on company rescue has helped to shift the perceptions of what constitutes best practice; the UK needs to reflect this if our businesses, investors and creditors are to remain confident that the best outcomes can be achieved when things go wrong.*
- Sajid Javid, then SoS at the Department for Business, Innovation and Skills
- *The proposal's key objective is to reduce the most significant barriers to the free flow of capital stemming from differences in Member States' restructuring and insolvency frameworks ... More specifically, such frameworks aim to increase investment and job opportunities in the single market, reduce unnecessary liquidations of viable companies, avoid unnecessary job losses, prevent the build-up of non-performing loans, facilitate cross-border restructurings, and reduce costs and increase opportunities for honest entrepreneurs to be given a fresh start*
- Explanatory memorandum to the EU Commission's proposal for a Directive on preventative restructuring frameworks

The World Bank's role

- World Bank's annual *Doing Business* league table
- Resolving Insolvency
- 2015
- The new measures –
 - WB's *Principles for Effective Insolvency and Creditor/Debtor Regimes*
 - UNCITRAL's *Legislative Guide on Insolvency Law*
- To move up the WB rankings – *close the distance to frontier of best practice*

The UK and the EU's response

- *A review of the Corporate Insolvency Framework – May 2016*
 - A new moratorium – DIP
 - Ipso Facto – sort of
 - New plan or reorganisation including cram down of classes
 - Super priority for DIP loans – probably not
- *Proposed EU Directive – November 2016*
 - EU minimum standards framework
 - Early warning
 - Early restructuring
 - Breathing space before enforcement
 - Cram down of dissentients
 - Access to finance
 - Efficient, streamlined court proceedings
 - Discharge periods

The Prize

- *The Five Presidents' Report – June 2015*
- *“Insolvency law among the most important bottlenecks preventing the integration of capital markets in the euro and beyond.”*
- Flourishing by being familiar
- For the UK
- For the EU

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