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Restructuring & Insolvency 2025

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1 Overview

1.1 Where would you place your jurisdiction on the spectrum of debtor- to creditor-friendly jurisdictions?

Ireland's insolvency and restructuring regime is generally regarded to be creditor-friendly with well-established and flexible remedies available to pursue delinquent debtors through enforcement of security, judgment proceedings and/or a petition to wind-up.

However, the Irish Courts seek to protect viable enterprise and employment and rescue procedures are available to companies in financial difficulty including examinership, the small company administrative rescue procedure ("**SCARP**") and schemes of arrangement.

1.2 Does the legislative framework in your jurisdiction allow for informal work-outs, as well as formal restructuring and insolvency proceedings, and to what extent are each of these used in practice?

There are a various options available to companies in financial difficulty in Ireland, ranging from informal consensual arrangements and work-outs to formal restructuring and insolvency processes.

Creditor forbearance, in the form of standstills, consensual variations, covenant waivers and/or extensions, will usually form a key cornerstone of any informal work-out. For many businesses, reaching an accommodation with key stakeholders, e.g. landlords, either through a staged payment plan to discharge accrued arrears of rent and service charges or a consensual surrender, can also be part of any informal work-out.

Where an informal work-out fails, there are various restructuring processes available including: (a) examinership, which was introduced in 1990 (similar to Chapter 11); (b) SCARP (available to small and micro-companies); and (c) schemes of arrangement.

Of these processes, examinership and SCARP are the most widely availed of Ireland's scheme of arrangement provisions, virtually mirror the regime in England and Wales, and have become increasingly popular since Brexit.

2 Key Issues to Consider When the Company is in Financial Difficulties

2.1 What duties, key considerations and potential liabilities should the directors/managers have regard to when managing a company in financial difficulties? Is there a specific point at which a company must enter a restructuring or insolvency process?

In the ordinary course, the directors of a company owe a fiduciary duty to the company. When a company is in financial difficulty, the directors must also have regard to the interests of creditors. While there is no mandatory obligation to file for insolvency in the event the company is insolvent, directors must ensure that by not liquidating the company, they are not worsening the position of creditors.

The Irish legislature codified certain duties of directors arising when a company is in the so-called "twilight zone", i.e. when there are questions as to a company's ability to trade on a solvent basis. Provisions of the Companies Act 2014 (the "**2014 Act**") also give effect to the mandatory provisions of the Preventative Restructuring Directive[1] and provide that where a director believes, or has reasonable cause to believe, that the company is, or is likely to be, unable to pay its debts, the director is required to have regard to:

(a) the interests of the creditors;
(b) the need to take steps to avoid insolvency; and
(c) the need to avoid deliberate or grossly negligent conduct that threatens the viability of the business of the company.

Shareholder and creditor interests should be considered by directors in exercising their duties. The directors' duty blends from one to the other as a company's financial position declines. If insolvency becomes inevitable, creditors interests become paramount. The directors need to keep their decision to continue to trade under constant review and should not sanction payments which benefit either closely connected companies or themselves personally to the detriment of the general body of creditors.

Irish law does not penalise genuine business failure nor does it penalise directors who have acted honestly and responsibly at a time when the company was in financial difficulty. Rather, the company law sanctions against directors of an insolvent company are designed to penalise individuals who are recklessly incurring credit or liabilities or who use up the company's assets where the directors cannot, on any reasonable or objective basis, believe that the company will be in a position to operate as a going concern.

2.2 Which other stakeholders may influence the company's situation? Are there any restrictions on the action that they can take against the company? For example, are there any special rules or regimes that apply to particular types of unsecured creditor (such as landlords, employees or creditors with retention of title arrangements) applicable to the laws of your jurisdiction? Are moratoria and stays on enforcement available?

The main stakeholders with influence over a company's situation include: (a) secured creditors; (b) preferential creditors, e.g. Revenue Commissioners ("**Revenue**"); (c) employees; (d) landlords; (e) retention of title creditors (whose claims can be validly enforced against a liquidator); and (f) general trade and unsecured creditors.

A secured creditor can appoint a receiver over the assets of an insolvent or defaulting borrower under the contractual powers granted by the borrower in the security documentation.

By issuing a statutory letter of demand, a creditor can petition for the winding up of the debtor company if the demand remains unsatisfied after the expiry of the 21-day period.

In an examinership, which can be triggered by the company, a shareholder or a creditor, the automatic moratorium and stay on enforcement, which comes into effect upon the presentation of the petition to appoint an Examiner, does not operate to prevent employees from taking certain proceedings to enforce outstanding judgments or to wind up the company. All other claims can only be brought or advanced with Court approval.

Counterparties to "executory contracts" cannot withhold performance, terminate, accelerate or in any other way modify contracts to the detriment of the debtor solely because of the appointment of an Examiner or Interim Examiner to the company or a related company. An "executory contract" is a contract between a company and one or more creditors under which the parties still have obligations to perform at the time the stay takes effect, e.g. a lease.

In addition, counterparties to "essential executory contracts" cannot take the steps referred to above solely because the debtor is deemed unable to pay its debts. In this context, "essential executory contracts" include executory contracts which are necessary for the continuation of the day-to-day operations of the business, including contracts concerning supplies, the suspension of which would lead to the debtor's activities coming to a standstill, e.g. a utility contract.

In a SCARP process, Revenue can elect to have their debts excluded from any rescue plan on certain specific grounds which include: (a) the Company having failed at any time in the past to comply with any tax requirement either under the 2014 Act or any other enactment; (b) the Company being subject to an ongoing tax audit or intervention; or (c) the Company having appealed any tax-related decision.

2.3 In what circumstances are transactions entered into by a company in financial difficulties at risk of challenge? What remedies are available?

There are various remedies available to a liquidator of an insolvent company. These provisions seek to protect creditors by repatriating assets or setting aside company transactions which involve the transfer or dissipation of company assets. The provisions can, in certain circumstances, also apply to an insolvent company not in liquidation.

Unfair preference
Certain transactions can be set aside if they were carried out with the intention of the directors of preferring one creditor over another.

Fraudulent dispositions of property
If it can be shown that any property of any kind was disposed of, the effect of such was to perpetrate a fraud on the company, its creditors or its members, the Court may order any person who appears to have the use, control or possession of such property, or the proceeds of the sale, to deliver it or pay a sum in respect of it to the liquidator.

Invalidity of certain charges
A floating charge on the property of a company created within 12 months before the commencement of the winding up is invalid unless it is proved that immediately after the creation of the charge the company was solvent.

Reckless or fraudulent trading
If an officer is found liable for reckless trading or fraudulent trading, a Court may declare him personally liable for all or any part of the liabilities of the company.

3 Restructuring Options

3.1 Is it possible to implement an informal work-out in your jurisdiction?

It is possible to implement an informal work-out in Ireland through consensual arrangements between a company and any one or more of its creditors. One disadvantage of such a process is that, while in negotiations, the company does not benefit from any moratorium or stay on enforcement, and is therefore vulnerable to creditor action. As a result, the company should try to agree a standstill with key creditors while exploring options to address its financial indebtedness.

3.2 What informal or formal rescue procedures are available in your jurisdiction to restructure the liabilities of distressed companies?

Informal
There are no defined informal rescue procedures under Irish law. The structure of any informal restructuring is subject to agreement between the company, its shareholders and creditors.

Creditor forbearance, in the form of standstill arrangements, consensual variations of terms, covenant waivers and/or extensions, may form part of an informal restructuring.

Other informal restructuring options may include exploring adjustments to the capital structure of the company by way of additional or new investment, debt-for-equity swaps, sale and leaseback of assets, asset sales, refinancing of existing debt, grant of additional security, etc. While many companies will explore all available options, if agreement cannot be reached with key stakeholders, they are more likely to avail of a formal restructuring process.

Formal

- **Examinership**
  Examinership is a statutory scheme for the rescue of individual companies or groups of companies to facilitate the survival of the whole or any part of a company as a going concern. The company is placed under the protection of the Court for a limited period whilst its affairs are investigated by an Examiner to see whether the company is capable of being rescued. The Examiner

has a maximum of 100 days to lodge a scheme in Court. Examinership usually comprises three main components: (a) new investment into the company; (b) forced write down of the company's current liabilities; and (c) "legal stay" or protection period which prevents any enforcement action being taken. Furthermore, no petition may be brought to wind up the company, a receiver may not be appointed, leased goods may not be repossessed, and retention of title rights may not be enforced. If upon the presentation of a petition a receiver stands appointed for less than three days, the receiver will cease to act and the examinership will proceed.

- **SCARP**
  SCARP is a dedicated rescue framework for small and micro companies. SCARP mirrors elements of examinership in an administrative context (i.e. without direct Court involvement, save in certain prescribed circumstances) resulting in efficiencies and lower comparable costs. A "Process Advisor", appointed by resolution of the directors, prepares a rescue plan for the company. There is no automatic moratorium on enforcement actions against a company in SCARP.
- **Schemes of arrangement**
  A scheme of arrangement comprises an arrangement between a company, its creditors, and its members to financially restructure a business. There are two types of scheme of arrangement under Irish law: (i) those approved by the Court governed by Part 9 of the 2014 Act; and (ii) those that do not require Court approval governed by Part 11 of the 2014 Act.
  The principal differences are as follows: a Court-approved scheme applies to solvent or insolvent companies. It is possible to apply to the Court for a period of protection (i.e. a stay on all proceedings against the company), and once approved by the Court, the scheme is unlikely to be set aside. However, a non-Court approved scheme arises where the company is about to be, or is in the course of, being wound up. No period of protection arises and any creditor or contributory may, within 21 days of completion of the scheme, seek to appeal to the Court.
  In either case, the company (or a liquidator in the case of a Part 11 Scheme) draws up a scheme proposal which is submitted to creditors for consideration. At a creditors' meeting, the scheme is explained and creditors can vote. The company continues to trade and directors remain in control during the process.

3.3 Are debt-for-equity swaps and pre-packaged sales possible? In the case of a pre-packaged sale, are there any restrictions on the involvement of connected persons?

Debt-for-equity swaps are a common feature in examinership. In certain circumstances, an examinership can also implement a pre-agreed transaction, albeit this remains subject to Court approval.

Pre-packaged sales can occur and usually arise in the context of a pre-pack receivership. A receiver may be appointed by a secured creditor over the assets of an insolvent or defaulting borrower under the contractual powers granted by the borrower in the security documentation. The main function of a receiver is to receive or get in the assets of the borrower comprised in the security document and dispose of them in order to pay off the principal, interest and other sums due to the creditor.

The receiver's primary obligation is to obtain the best price reasonably obtainable for the property at the time of its sale. Where a receiver sells non-cash assets to certain connected persons within a certain period, he must give 14 days' notice of his intention to sell to all creditors of the company (although, this requirement does not apply in the context of an auction sale).

3.4 To what extent can creditors and/or shareholders block such procedures or threaten action (including enforcement of security) to seek an advantage? Do your procedures allow you to cram-down dissenting stakeholders? Can you cram-down dissenting classes of stakeholder?

While there is no mechanism to cram-down the liabilities of dissenting creditor classes in an informal restructuring, a cross-class cram-down may arise in the context of various formal restructuring processes as follows:

Examinership
Creditors have a key role in approving the Examiner's scheme. Cross-class cram-down is permitted provided the Examiner's scheme of arrangement is approved by either: (a) a majority of the voting classes of impaired creditors provided at least one of those classes is a secured creditor or is senior to the ordinary unsecured creditors (e.g. preferential creditors); or (b) at least one class of impaired creditors provided that class is one which would receive some payment or interest in the event that the company were liquidated (i.e. an "in the money" class). The creditors or a creditor class is deemed to have approved the scheme if a majority in number and value (51%) vote in favour.

SCARP
In order for the rescue plan to be approved and binding on all creditors, 60% in number representing a majority in value of just one impaired class of creditors have to vote in favour of the rescue plan. If approved, any cross-class cram-down will be binding on all creditors.

Schemes of arrangement
Part 9 (Court) Scheme: In the case of a Court Scheme, it is binding when three conditions are satisfied: (i) majority in number and 75% in value of each class votes in favour; (ii) notice of final Court hearing has been advertised; and (iii) Court sanctions the scheme. If the requisite majority is achieved and the Court has sanctioned it, the scheme including any cross-class cram-down is binding on the minority.

Part 11 (Non-Court) Scheme: In the case of a non-Court Scheme, it is binding if 75% in number and value of all creditors vote in favour of the scheme. Once the scheme has obtained the relevant support, any cross-class cram-down will be binding on the company, its creditors and any liquidator (if the scheme of arrangement is promoted by a liquidator).

3.5 What are the criteria for entry into each restructuring procedure?

Examinership
The criteria to enter into examinership are threefold: (a) the company is, or is likely to become, insolvent; (b) no resolution has been passed (nor has any order been made) to wind up the company; and (c) there is a reasonable prospect of survival of the whole or part of the business as a going concern.

SCARP
SCARP may be availed of by companies which satisfy two of the three following criteria: (i) turnover does not exceed €12 million; (ii) the balance sheet total does not exceed €6 million; and (iii) the average number of employees does not exceed 50. In addition, the company must not have entered an examinership or SCARP process in the previous five years and there must be no order made, and no pending resolution, for its winding up.

Schemes of arrangement
A Part 9 scheme applies to solvent or insolvent companies. A Part 11 scheme may be availed of where the company is about to be or is in the course of being wound up.

3.6 Who manages each process? Is there any court involvement?

Examinership
Examinership is a Court-driven and supervised process. The Examiner is appointed to formulate proposals for a scheme of arrangement, but the directors are not displaced unless the Examiner applies to Court to acquire certain of the directors' powers (which is rare). The Examiner sits alongside the directors while the directors continue to run the business as a going concern.

SCARP
SCARP is an administrative process with no Court involvement, save in certain prescribed circumstances. An application to Court may be required where, *inter alia*, the receiver or provisional liquidator is appointed, the Process Advisors wish to disclaim or affirm a contract, and/or where a creditor objects to the rescue plan. A Process Advisor cannot apply to Court seeking a transfer of the director' powers to him.

Schemes of arrangement
Schemes are a company-led process, no insolvency practitioner is appointed, and the directors continue to manage the company. A Part 9 scheme must be sanctioned by the Court.

3.7 What impact does each restructuring procedure have on existing contracts? Are the parties obliged to perform outstanding obligations? What protections are there for those who are forced to perform their outstanding obligations? Will termination and set-off provisions be upheld?

Termination rights arising on the invocation of certain insolvency processes are commonplace in contracts. However, as noted above in question 2.2, there are restrictions on the termination of executory contracts and essential executory contract in an examinership thereby requiring performance of the contract.

There are strict rules regarding the enforcement of third-party guarantees in an examinership and SCARP. A creditor's right to pursue guarantors is preserved if their right to vote on scheme is transferred as prescribed by statute. Creditors should carefully consider the impact of any scheme or rescue plan on guaranteed obligations and act in a timely manner to preserve the guarantee.

Set-off and rights under netting agreements are exercisable in examinership.

3.8 How is each restructuring process funded? Is any protection given to rescue financing?

Examinership
The company must be in a position to discharge liabilities incurred during the examinership. In the event of liquidation or receivership following a failed examinership, the costs and expenses of the examinership rank in priority. In practical terms, the costs of the examinership process will usually be funded by the investor. In certain circumstances, an Examiner can certify certain expenses which has the effect of affording them a priority ranking in a subsequent liquidation.

SCARP
The fees, costs and expenses of the Process Advisor are provided for in the rescue plan and, unless reduced by the Court, will be paid in priority to all other claims.

Schemes of arrangement
The costs of a scheme of arrangement will be funded by the company or by the promotors of the scheme.

4 Insolvency Procedures

4.1 What is/are the key insolvency procedure(s) available to wind up or rescue a company?

Examinership and SCARP, the core Irish rescue procedures, are discussed in section 3 above. In addition, there are two processes to liquidate an insolvent company: (a) Court liquidation; or (b) creditors' voluntary liquidation ("**CVL**").

Court liquidation
An insolvent company may be wound up by the Irish Courts, on a petition issued by the company or a creditor, where the Court is satisfied that it is just and equitable that the company be wound up. A petition can be issued, *inter alios*, where the members of a company have resolved that the company be wound up by the Court or where the company is unable to pay its debts. This procedure is most commonly invoked by disgruntled creditors. In order to demonstrate a debtor's insolvency, a creditor must demand repayment of a sum in excess of €10,000 (or €20,000 if the debt is due to two or more creditors) and if such sum remains unpaid for a period of 21 days, that creditor will have demonstrated that the company is deemed to be insolvent.

CVL
CVL is the liquidation procedure most commonly used where a company is insolvent. A CVL is initiated by a resolution of the directors, determining that the company cannot by reason of its liabilities continue to trade. Thereafter, they resolve to commence the process and convene a meeting of members and a meeting of creditors at which a statement of the company's affairs is presented. A notice of the creditors' meeting is sent to all known creditors at least 10 days in advance. At the meeting, the statement of affairs is presented to the creditors, and the creditors have an opportunity to appoint a liquidator of their own choosing and to appoint a committee of inspection (which has certain supervisory powers in a liquidation). The liquidation is commenced upon the passing of the members' resolution.

4.2 On what grounds can a company be placed into each winding up or rescue procedure?

The thresholds for commencing examinership or SCARP are discussed in response to question 3.5 above.

A petition for the appointment of a liquidator by the Court is usually presented on the basis that the company is (a) unable to discharge its liabilities as they fall due, (b) deemed insolvent (for failure to discharge a statutory letter or demand), or (c) where it is just and equitable that the company be wound up. While there are some other bases for grounding a petition, they are seldomly utilised.

A CVL can be commenced by ordinary resolution of the shareholders of the company on the basis that the company cannot by reason of its liabilities continue to trade.

4.3 Who manages each winding up or rescue process? Is there any court involvement?

The management of companies in both examinership and SCARP is discussed in response to question 3.6 above.

The winding up process is managed by the liquidator who has the statutory powers and functions provided in the 2014 Act. The Court has a limited supervisory function in the case of a Court liquidation, e.g. in relation to the liquidator's fees and costs in the event they are not approved by the creditors or committee of inspection.

4.4 How are the creditors and/or shareholders able to influence each winding up or rescue process? Are there any restrictions on the action that they can take (including the enforcement of security)?

In a CVL, the company/members nominate the proposed liquidator. However, the creditors may appoint an alternative liquidator if a majority in number and value of the creditors present personally or by proxy at the creditors' meeting vote in favour, ousting the company's nominee.

In a Court liquidation, a creditor(s) may propose an alternative nominee liquidator to the Court. Furthermore, a creditor can also bring an application for directions to the High Court where that creditor is dissatisfied with the conduct of a liquidation.

In either liquidation process, a committee of inspection comprising up to five creditor nominees and three company/member nominees may be formed. The most important roles of the committee relate to: (a) the exercise of certain of the liquidator's powers; and (b) the remuneration of the liquidator.

Secured creditors' rights are generally unaffected by a liquidation. The secured creditor may appoint a receiver over the secured assets, in accordance with its contractual rights in the security document, or it may elect to allow the liquidator to sell the secured assets and remit the net proceeds. In most cases, the secured creditor will opt to appoint a receiver.

4.5 What impact does each winding up or rescue procedure have on existing contracts? Are the parties obliged to perform outstanding obligations? Will termination and set-off provisions be upheld?

The impacts of examinership and SCARP on existing contracts have been addressed in response to question 3.7 above.

In a liquidation context, this will largely depend on contractual terms. Most contracts include a termination right triggered by insolvency. A liquidator can apply to Court seeking an order disclaiming an onerous contract. In addition, a contractual counterparty can call on a liquidator to elect whether or not to disclaim the contract within 28 days of receipt of notice in writing. Creditors may exercise contractual or insolvency set-off in a liquidation context. Damages claims for breach of contract will rank as unsecured claims in a liquidation.

4.6 What is the ranking of claims in each procedure, including the costs of the procedure?

Claims will be satisfied out of any assets of the company in an insolvent winding up, broadly as follows:

(1) costs and expenses of an Examiner or Process Advisor (following an unsuccessful examinership or SCARP);
(2) super-preferential claims for pay-related social insurance;
(3) fixed charges;
(4) costs and expenses of the liquidation;
(5) preferential creditors (predominantly employee and revenue claims);
(6) floating charges ranked by time of creation;
(7) unsecured debts rank *pari passu* (termination payments due to employees under contracts of employment will, in general, be regarded as unsecured debts);
(8) deferred debts rank *pari passu* (subject to expressed levels of deferment); and
(9) the members of the company are last to be paid.

Claims of secured creditors and retention of title creditors generally fall outside the pool of assets in an insolvent liquidation.

4.7 Is it possible for the company to be revived in the future?

A creditor may seek an order of the Court reinstating the liquidator for a period of two years following the date of dissolution.

5 Tax

5.1 What are the key tax risks that might apply to a restructuring or insolvency procedure?

The commencement of any restructuring process does not trigger any particular tax liabilities. In an examinership or SCARP, tax liabilities continue to accrue and must be paid during the process. Tax liabilities generally rank as preferential debts in a liquidation or receivership. While certain tax liabilities could be deferred in response to COVID-19, this scheme is being phased out and companies are now expected to engage with Revenue to agree a payment arrangement.

6 Employees

6.1 What is the effect of each restructuring or insolvency procedure on employees? What claims would employees have and where do they rank?

The rules regarding collective redundancies, including consultation and notice requirements, apply on the liquidation of a company. A failure by a liquidator to comply with these provisions may constitute a criminal offence. If a liquidator continues to operate the business of company, he may re-engage certain employees on contract terms. If the business

is sold, employer's obligations to employees may transfer to the purchaser under TUPE. As noted above, certain employee claims will rank as preferential claims in the liquidation.

The appointment of an Examiner, Process Advisor or receiver does not automatically terminate contracts of employment.

Following recent legislative amendments, where an insolvency procedure will result in a collective redundancy, a 30-day consultation/notice period must expire before dismissal notices are issued to employees.

7 Cross-Border Issues

7.1 Can companies incorporated elsewhere use restructuring procedures or enter into insolvency proceedings in your jurisdiction?

In accordance with the provisions of the Recast Insolvency Regulation, companies with their centre of main interests ("**COMI**") in Ireland can be wound up in Ireland irrespective of their place of incorporation.

In recent years, the Irish Courts have extended the appointment of an Examiner to a company formed and registered outside of Ireland but with a sufficient connection to Ireland and a company incorporated outside of Ireland but with its COMI in Ireland.

While schemes of arrangement do not fall within the scope of the Recast Insolvency Regulation, the Irish Courts have sanctioned schemes for companies with a sufficient connection to Ireland.

7.2 Is there scope for a restructuring or insolvency process commenced elsewhere to be recognised in your jurisdiction?

The Recast Insolvency Regulation also requires mandatory recognition of relevant insolvency proceedings commenced in other EU Member States. If the proceedings are commenced in a country outside of the EU, the insolvency practitioner can apply to the Irish Courts seeking an order recognising the proceedings. Ireland is not a signatory to the UNCITRAL Model Law on cross-border insolvency.

7.3 Do companies incorporated in your jurisdiction restructure or enter into insolvency proceedings in other jurisdictions? Is this common practice?

This is not that common. However, in recent years, we have seen a number of instances where large groups of companies with an Irish incorporated public limited company parent availing of Chapter 11 in the US with a parallel Irish examinership to restructure the shares of the Irish parent company PLC. Additionally, schemes of arrangement and examinerships have been recognised in the US under Chapter 15 of the Bankruptcy Code.

There is also a specific mechanism under Section 426 of the Insolvency Act 1986, which provides for the recognition of Irish insolvency and restructuring processes in England & Wales and for the compromise of English law-governed debt in this jurisdiction.

8 Groups

8.1 How are groups of companies treated on the insolvency of one or more members? Is there scope for co-operation between officeholders?

Each company will be treated as a separate legal entity, and the appointment of an Examiner, Process Advisor or liquidator will usually not impact on a related company. However, an Examiner may be appointed to a related company where it would facilitate the survival of the company, or of the related company, or both, and the whole or any part of its or their undertaking, as a going concern.

Where there is a shortfall of available assets, a liquidator may apply to the Court for an order directing that a company that is or has been related to the company being wound-up (such as a parent or subsidiary company or a company in common ownership) contribute to the assets of the company ("**Contribution Order**"). Similarly, where two or more related companies are being wound up, the liquidator can apply for an order directing that the companies be wound up together as if they were one company and the assets pooled between the creditors of all the companies ("**Pooling Order**").

9 The Future

9.1 What, if any, proposals exist for future changes in restructuring and insolvency rules in your jurisdiction?

On 7 December 2022, the European Commission tabled a proposal for a directive harmonising certain aspects of insolvency law. While the Irish Government sought stakeholder input on proposals for the directive by February 2023, it will likely take a further period of years before the directive is passed and transposed into Irish law.

Ireland transposed the mandatory provisions of the Preventive Restructuring Directive in July 2022. Phase 2 of the transposition addresses the optional provisions in the directive, including those providing for heightened employee protections and measures to facilitate new financing in restructuring processes. A Government consultation process on phase 2 is awaited.

9.2 What, in your opinion, is the outlook for the restructuring and insolvency market in your jurisdiction over the next year? Are there any specific macroeconomic factors expected to cause, or any particular sectors expected to be impacted by, financial distress?

While the avalanche of insolvencies expected following the COVID-19 pandemic did not ultimately materialise in Ireland (in large part due to Government supports, Revenue debt warehousing, creditor forbearance and related supports), practitioners are seeing a steady increase in financial distress in Ireland. In 2024, the numbers of insolvencies in the SME sector returned to pre-COVID-19 levels with the largest number of insolvencies since 2017. This increase in the numbers of insolvencies has been largely driven by CVLs.

Within this sector, hospitality businesses are especially affected by rising energy prices, increased labour, rent and insurance costs, increases in VAT rates, and a fall in consumers' disposable incomes. These trends are expected to continue into 2025 with macroeconomic conditions appearing unlikely

to improve in the short term. Lender forbearance also appears to be waning, as practitioners see an increase in enforcement in the commercial real estate sector, in part driven by falling office rental yields.

Ireland remains attractive as a destination of choice for cross-border restructuring. The ready recognition of examinership across Europe and in the US pursuant to Chapter 15, together with the significant recent experience of the Irish Courts in dealing with complex cross-border restructurings, makes it an appealing process for debtors with an Irish nexus.

Endnote

1 Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks – PE/93/2018/REV/1.

Michael Murphy is Head of the firm's Dispute Resolution and Litigation Group. Specialising in complex restructuring and insolvencies, Michael has played a key role in the most significant restructuring cases in this jurisdiction over the last 20 years, frequently involving cross-border issues. Michael is a member of Insol Europe and has written and lectured extensively on corporate restructuring and Ireland as a restructuring destination.

Key highlights include advising:

- SAS AB and a number of its aircraft-owning subsidiaries on Irish aspects of their successful emergence from US and Swedish restructuring processes, concluding in the investment of US$1.2 billion in the reorganised SAS.
- Key aircraft leasing companies, financiers and shareholder in the Norwegian Air examinership which was used to implement a significant fleet reduction and restructuring of US$5 billion of debt.

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Áine Murphy qualified in 2012 and has extensive experience in advising on all aspects of both contentious and non-contentious insolvency and restructuring including receiverships, examinerships, liquidations and consensual arrangements and has played a key role in the most complex and high-profile mandates. Áine also has significant experience in advising banks, financial institutions, and loan acquirers on all aspects of enforcement and debt recovery including carrying out security reviews and preparing enforcement steps plans with a view to advising on all options for realising/enforcing security.

Key highlights include advising:

- Globoforce Group plc, trading as Workhuman, a highly regarded employee reward and recognition software technology company recognised as one of a few Irish tech unicorns, in a complex shareholder dispute between Workhuman and ICG.
- Luke Charlton and Colin Farquharson of EY, as Joint Liquidators, of BlackBee Investments Limited, a MiFID-regulated investment firm previously authorised and regulated by the Central Bank of Ireland (following a petition to wind-up by the Central Bank), City Quarter Capital II plc (as Issuer on a number of retail-backed investments) and a number of related entities.

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Joshua Kieran-Glennon is an Associate in the firm's Restructuring and Insolvency Group, having qualified as a solicitor in 2024. Together with the wider group, he advises insolvency practitioners, debtors and creditors in liquidation, receivership and examinership scenarios, as well as in associated litigation. Joshua has a particular interest in cross-border restructuring matters.

Key highlights include advising SAS AB and a number of its aircraft-owning subsidiaries on Irish aspects of their successful emergence from US and Swedish restructuring processes, concluding in the investment of US$1.2 billion in the reorganised SAS.

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