

International Corporate Rescue



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A Note to Our Readership

Mark Fennessy, Partner, Orrick, Herrington & Sutcliffe, London, UK

The last 18 months have seen unprecedented uncertainty in the global financial markets. The year 2008 was for many a bank and fund an *annus horribilis* – one to forget in no uncertain terms. Unfortunately, many predict that the financial pain is set to get a lot worse in 2009.

As Barack Obama starts his presidency, Governments and Central Banks throughout the world continue to grapple with the fallout of the liquidity crisis which really hit home in August 2007 and led to the collapse of Lehman Brothers in September 2008. The ongoing lack of trust and confidence in the world's banking system and the lack of affordable credit is a real problem for many a business.

When these complex financial products started to unravel in August 2007, leading to the restructuring of many SIVs such as Cheyne Finance, Rhinebridge, Whistlejacket Capital and others, it soon became clear that the market for these assets had diminished considerably. The resulting liquidity crisis has trickled down into the real economy with highly leveraged corporates being squeezed financially. Lines of credit have dried up as banks, nursing huge losses from risky structured assets and under increased regulatory pressure to repair their balance sheets, have been reluctant to lend.

Against this backdrop, restructuring professionals will need to grapple with a myriad of factors in order to successfully restructure corporates and businesses. The increased complexity of the capital structures will leave many funds and banks under the value break which, in turn, may well give rise to disputes regarding asset valuations, trading activities, etc., and a likely rise in litigation.

One thing that the last 18 months has taught us is that these changes take place very quickly. Furthermore, we have also seen so many restructurings and insolvencies that are complex and international in nature. In turn, this makes an up-to-date and fully comprehensive guide through the myriad of legal and financial complexities an absolute necessity to operate in today's market rather than a dispensable luxury. This continues to be the main objective of *International Corporate Rescue*, that is, to provide practitioner value on a range of corporate rescue and insolvency issues covering a multitude of jurisdictions. It aims to do this by understanding and commenting on the factors affecting global economic change and the ramifications of change. You will see this in the articles that have appeared in *International Corporate Rescue* over the last five years, as well as this issue, where we have commentary on a range of recent court decisions as well as updates on the developments in the US relating to the Troubled Asset Relief Programme and on the liquidity schemes that have attempted to prop up various economies throughout the world.

This issue includes an article on cross-border restructurings written by Professor Philip Smart. It is with great sadness that we publish the last *International Corporate Rescue* article written by Professor Smart, who passed away prematurely last year. Philip was a great supporter of *International Corporate Rescue* and an active member of our Editorial Board from the outset. We are grateful for having had the opportunity to work with Philip, who was a leading authority on cross-border insolvency law and practice. We dedicate this issue to his memory.

International Corporate Rescue

International Corporate Rescue addresses the most relevant issues in the topical area of insolvency and corporate rescue law and practice. The journal encompasses within its scope banking and financial services, company and insolvency law from an international perspective. It is broad enough to cover industry perspectives, yet specialized enough to provide in-depth analysis to practitioners facing these issues on a day-to-day basis. The coverage and analysis published in the journal is truly international and reaches the key jurisdictions where there is corporate rescue activity within core regions of North and South America, UK, Europe Austral Asia and Asia.

Alongside its regular features – Editorial, The US Corner, Economists' Outlook and Case Review section – each issue of *International Corporate Rescue* brings superbly authoritative articles on the most pertinent international business issues written by the leading experts in the field.

International Corporate Rescue has been relied on by practitioners and lawyers throughout the world and is designed to help:

- Better understanding of the practical implications of insolvency and business failure – and the risk of operating in certain markets.
- Keeping the reader up to date with relevant developments in international business and trade, legislation, regulation and litigation.
- Identify and assess potential problems and avoid costly mistakes.

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