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BANKRUPTCY & RESTRUCTURING

Bankruptcies in several regions and countries have increased significantly. Growing financial pressures have led organisations to incorporate liability management exercises into their financing strategies. At the same time, artificial intelligence is beginning to support restructuring efforts, helping shift the approach from reactive to more strategic planning. In a challenging and unpredictable business environment, organisations that identify early warning signs, communicate openly with financial stakeholders, and take timely action to protect value are more likely to manage bankruptcy and restructuring processes with confidence and control. ■



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FW: LOOKING BACK OVER THE PAST YEAR, WHAT SHIFTS OR DEVELOPMENTS IN THE CORPORATE BANKRUPTCY AND RESTRUCTURING LANDSCAPE HAVE SURPRISED YOU MOST? WHAT ARE THE UNDERLYING DRIVERS OF THESE TRENDS?

COLOMBIA

Gomez-Clark: Colombia has made remarkable progress in recent years in the bankruptcy and insolvency space. During the pandemic, temporary regulations were enacted to make insolvency proceedings more agile and expedited, aiming to resolve creditor claims in a less litigious framework than that of the traditional reorganisation process under Law 1116 of 2006. In December 2024, these models were permanently incorporated into the legal framework, and over the past year several companies have undergone reorganisation under these new mechanisms. A notable example is Acerías Paz del Río, a relatively large Colombian company with approximately \$100m in debt, which successfully reached a reorganisation agreement with its creditors in just three months – a process that, under the traditional Law 1116 procedure, would have typically taken around 24 months. This development represents a milestone in Colombia's insolvency history, signalling tangible progress in the professionalisation of the

country's distressed assets and restructuring industry.

SWITZERLAND

Meili: In Switzerland, the number of bankruptcies is approaching an all-time high. To the end of August 2025, nearly 9000 companies had filed for bankruptcy. By the end of the year, the total number is expected to reach approximately 15,000. This would represent an increase of more than 30 percent compared to 2024. The reasons for this significant increase include the long-term effects of the pandemic, general economic uncertainty and geopolitical conflicts. However, in Switzerland, the primary driver of bankruptcies is a revision of the Swiss Debt Enforcement and Bankruptcy Act, which came into force on 1 January 2025. The revised law requires that the enforcement of public debt must now lead to the bankruptcy of the debtor, whereas the old law merely resulted in the realisation of assets, not in a bankruptcy.

UNITED KINGDOM

Asimacopoulos: The most notable development has been the growth and pervasiveness of liability management, which is no longer seen as just a crisis tool to be used in the margins but has become a standard part of the financing toolkit. Two factors have made it mainstream. First, private credit's scale and speed, which allowed

financing flexibility to underpin these transactions. And second, the documentation evolution, where they are designed with pre-wired liability management exercises (LMEs) in mind. This has meant that stakeholders now expect LMEs to occur. Even with courts narrowing extreme uptiers, the market has adapted. Of course, the spread of LMEs into the European market was resisted, predicted and has very much arrived, with some extremes of non pro-rata treatment being driven by creditors themselves, surprising many. From a UK perspective, recent cases on restructuring plans – such as *Adler*, *Thames Water*, *Petrofac* and *Waldorf* – have had a material impact. Key principles, including fairness, value allocation and treatment of out of the money creditors, have evolved but remain uncertain pending a decision of the Supreme Court in *Waldorf*. This has dampened appetite to use restructuring plans in favour of enforcements, which have made a resurgence. We will soon see if this is only temporary.

NETHERLANDS

Volkers: The most interesting development has been the rapid migration of US-style LMEs to European debt structures, in the Netherlands specifically, that would have been unthinkable in European markets just a couple of years ago. LMEs allow borrowers to access liquidity and reduce their

debt burden through contractual permissions rather than in-court or extrajudicial restructuring processes. The main types include drop-down financing, non-pro rata up-tiering and double-dip transactions, some of which has led to creditor on creditor violence, as is evidenced by the Hunkemöller case. European markets traditionally had less of such LME transactions, because European courts are traditionally more likely to consider non-contractual factors in creditor disputes. Raising the bar for justifying LMEs and personal liability considerations sometimes makes European directors more cautious. In addition, in-court restructurings in Europe, particularly in the Netherlands, tend to offer more flexible frameworks than the US alternative, against lower costs. The underlying drivers are multifaceted and include a prolonged period of low interest rates, the rise of private credit and the maturation of European leveraged finance markets – now followed by rising interest rates and geopolitical tensions, which has created the infrastructure necessary for complex LMEs.

SOUTH AFRICA

Whalley-Hands: Over the past year, South Africa and sub-Saharan Africa's corporate insolvency and restructuring landscape have become markedly more proactive and operationally focused. Lenders are intervening earlier with covenant waivers, debt reprofiling and bridge funding,

particularly in agribusiness, retail and manufacturing, where cash cycle strain is acute. For instance, Daybreak Foods entered formal business rescue in May 2025 with new capital to stabilise operations, while Tongaat Hulett's complex multi-country process has shifted toward restoring operational viability rather than pure balance sheet repair. In contrast, when financial distress deepens in capital-intensive sectors like engineering and infrastructure, business rescue efforts tend to be short-lived, as seen with Ellies Holdings' rapid move from rescue to liquidation. A clear disconnect remains between the legal process of business rescue and the practical realities of turning a business around. Rescue plans often fall short of addressing the strategic and operational shifts needed for lasting viability. Core levers such as production efficiency, cost control, supply-chain stability and leadership capability are not always explored in depth. This gap exists largely because operational restructuring advisers are not consistently involved early enough, even though credible recovery strategies require multidisciplinary teams that blend financial, legal and operational expertise. Most business rescue filings are still initiated voluntarily.

FRANCE

Nerguararian: Deriving from longstanding practices in the US, LMEs have seen their first major attempted introduction to the French restructuring market with

the Altice restructuring. In this instance, Patrick Drahi organised the transfer of key assets outside of the restricted group, including shares in XPFibre and Altice Media, using the flexibility afforded by finance documentation under UK and US law. However, Mr Drahi did not pursue this attempt further and ended up negotiating a financial restructuring through the typical combined French law conciliation-accelerated safeguard route. This attempt has, however, aroused interest – and equally concerns – in using this technique to restructure part of the debtor's indebtedness, without having to comply with the underlying principles of fairness and equal treatment among creditors that would otherwise apply in a French law restructuring process.

FW: WHEN A BUSINESS BEGINS TO SHOW SIGNS OF FINANCIAL STRAIN, WHAT PRACTICAL STEPS SHOULD LEADERSHIP PRIORITISE – ESPECIALLY IN TERMS OF ADDRESSING FINANCIAL AND OPERATIONAL PROBLEMS? HOW DOES TIMING INFLUENCE THE EFFECTIVENESS OF THOSE INTERVENTIONS?

SWITZERLAND

Meili: When there are signs of financial distress, fast and structured action is essential, not only to address operational problems, but also to comply with legal obligations. In the event of imminent liquidity shortfalls,



the board of directors of a Swiss company is required to urgently take appropriate measures to safeguard the company's solvency and to meet its immediate payment obligations. If necessary, the board must initiate further restructuring or recovery efforts to ensure the company's solvency. If the company also suffers from capital loss, additional restructuring measures must be implemented to obtain additional financing and to reduce non-essential business operations. If the company is over-indebted and this cannot be remedied within 90 days – through creditors subordinating their claims, for instance – the board must file for bankruptcy. Failure to take the required steps may lead to directors' liability.

UNITED KINGDOM

Asimacopoulos: When signs of financial distress emerge, early intervention and planning is critical. Business leaders must understand the company's liquidity profile, the ability to raise new capital, operational needs of the business, the position of stakeholders and applicable directors' duties. Simultaneously, a rapid stabilisation of cashflow, tightening of working capital, and diagnosis of operational efficiencies and cost structures is key. Transparency and stakeholder engagement – and having sufficient time for effective negotiations – helps preserve stakeholder confidence and optionality. Delay generally narrows possibilities and increases the likelihood of

Dutch directors will face mandatory filing obligations within three months of becoming aware of insolvency, making early intervention not just prudent but legally necessary.

NETHERLANDS JOOST VOLKERS
VAN DOORNE

formal insolvency. The key is to act decisively before triggers force reactive decision making. This requires understanding the solutions available – from out of court consensual routes to full financial and operational turnaround transactions – how to implement them and timelines.

NETHERLANDS

Volkers: Leadership must act decisively at the first signs of distress. Priority one is conducting a rigorous cashflow analysis and securing immediate liquidity, whether through covenant renegotiations, asset disposals, spending cuts or alternative financing. Early engagement with stakeholders, particularly secured creditors, is critical. Companies that wait until covenant breach

or payment default have already surrendered significant negotiating leverage. The window for out-of-court solutions narrows rapidly if sufficient liquidity is not available. The Act on Court Confirmation of Extrajudicial Restructuring Plan, also known as the Dutch Scheme or 'WHOA', allows companies to restructure while maintaining operational control – debtor in possession (DIP) – but only if initiated before insolvency becomes inevitable and while requiring sufficient cash throughout the process. In addition, leadership should prioritise operational efficiency improvements, renegotiating unfavourable contracts and addressing structural cost issues immediately. The Blokker case exemplifies the cost of delayed action – losses began

in 2014, yet bankruptcy did not occur until 2024, by which time the business was beyond rescue.

SOUTH AFRICA

Whalley-Hands: When early signs of strain appear, leadership must first recognise and accept the business's true performance position, whether it is a case of strategic drift or a looming liquidity crisis. The severity and timing of the company's performance issues dictate which turnaround interventions are feasible and effective. Once reality is acknowledged, attention should quickly shift to immediate stabilisation measures, such as cashflow forecasting, strict disbursement controls to stop financial bleeding, and transparent engagement with

stakeholders. Companies with stronger governance, disciplined management and clear financial transparency generally achieve higher recovery rates, earning greater support from lenders and investors, especially when independent restructuring professionals and cross-functional turnaround teams provide objective oversight. The first 60 to 90 days are pivotal. Acting before default preserves options and influence, whereas denial or delay erodes stakeholder trust and leaves leaders merely managing decline instead of driving a recovery.

FRANCE

Nerguararian: When a business becomes strained in France, management should immediately set different priority levels. In

the short term, directors must be extremely focused on the use and preservation of cash, given that cashflow insolvency is the key trigger of insolvency in France – debtors have 45 days upon becoming cashflow insolvent to file for conciliation or judicial reorganisation proceedings. In the meantime, they will need to find the underlying causes of their problems, be they financial or operational. This self-reflection exercise is often extremely difficult for existing management to conduct, but is critical for a successful turnaround. It is therefore of paramount importance to engage the support of financial, accounting and legal advisers who can help assess the debtor's actual situation as early as possible, and prepare solutions. It is also essential for management to ensure the right team is in place and to strengthen it with an executive seasoned in crisis management, such as a chief risk officer, as soon as possible. In parallel, as soon as there is consensus among management and their advisers on the company's needs, directors should approach some of their key stakeholders on a bilateral and confidential basis as soon as possible, since time is of the essence in any stressed or distressed situation.

COLOMBIA

Gomez-Clark: Although it may sound repetitive, when a business begins to show signs of deterioration, leadership's primary focus must be on managing



Delay generally narrows possibilities and increases the likelihood of formal insolvency. The key is to act decisively before triggers force reactive decision making.

UNITED KINGDOM KON ASIMACOPOULOS
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liquidity effectively. Cash is king. Best practices call for rigorous cash management, following the universal payment hierarchy – labour, taxes, critical operations, then secured and unsecured creditors – and this discipline must be intensified under distress conditions. Equally important is establishing a weekly control tower to oversee all critical aspects of the business and ensure sound decision making throughout the crisis. As for timing, intervention should occur at the first signs of financial strain. In practice, however, many business leaders still wait until the point of no return, when value recovery becomes far more costly and painful for all parties involved.

FW: IN WHAT WAYS IS EMERGING TECHNOLOGY, PARTICULARLY AI, RESHAPING THE WAY CORPORATE DEBTORS AND THEIR ADVISERS ASSESS RISK, DESIGN TURNAROUND STRATEGIES, AND ENGAGE WITH KEY STAKEHOLDERS DURING INSOLVENCY PROCEEDINGS?

UNITED KINGDOM

Asimacopoulos: Advancing technology, especially artificial intelligence (AI), is starting to improve efficiencies and will increasingly move restructuring processes from reactive to more strategic, including faster analyses of financial position, potential liabilities, contractual issues, hidden exposures and more, which facilitates earlier decision making

As the African market matures, investors are moving beyond opportunism toward strategic transformation – focusing not only on who can fund a deal, but increasingly on who can operationally fix and sustain the business.

SOUTH AFRICA EMMA WHALLEY-HANDS
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around restructuring strategy. AI can also offer faster extraction of material provisions, meaning options analysis, feasibility studies and turnaround plans can be more tailored and comprehensive. Creditors and boards will also be able to receive clearer and more comprehensive information more quickly, with greater transparency improving stakeholder confidence. In addition, shortening timelines using automation facilitates earlier decision making, preserving optionality and value. Nevertheless, we are still at the nascent stages of this, and challenges around data and input quality often remain. Good data and human oversight are, and are likely to be for a long time to come, paramount.

NETHERLANDS

Volkers: AI adoption in restructuring is accelerating, although it is still a bit behind other legal expertise, such as automated due diligence in M&A and finance transactions, document review in proceedings, and standardisation of agreements. However, AI can be valuable in risk assessment through analytics that process vast datasets to identify early warning signals in payment patterns, supplier behaviour and market indicators. Predictive modelling tools can simulate restructuring scenarios, stress-testing recovery rates and stakeholder behaviour. AI is particularly valuable in managing large groups of creditor bases in restructurings, such as smaller trade creditors or when dealing with mass claims. However, technology remains a tool, not a

replacement for nuanced judgment and stakeholder management in complex cross-border restructurings. The human factor and sophisticated legal expertise, which AI cannot replicate, remains key in complex restructuring and insolvency cases. The future lies in combining technological efficiency with human strategic insight.

SOUTH AFRICA

Whalley-Hands: The greatest opportunity for turnaround professionals lies in the vast amount of data companies generate each year. Yet businesses in distress often suffer from weak data governance and limited visibility into operational and commercial drivers. Effective turnaround teams now use advanced data cleansing, transformation and

visualisation tools to accelerate fact-based insights. Predictive analytics, process automation and data modelling techniques are increasingly common, while generative AI is emerging in early pilots for scenario planning and performance forecasting. These tools enable faster, evidence-based decision making and strengthen credit-risk assessments, with mature lenders already embedding machine-learning models into their workflows. Advisers, meanwhile, leverage interactive dashboards and virtual data rooms to improve transparency and engagement among stakeholders, helping align decisions around a shared factual baseline. However, judgement, trust and transparent communication remain the real differentiators of success. In many cases, simple

tools – ratios, trend analysis and performance metrics – paired with experienced practitioners who can interrogate data and link financial signals to operational realities, prove just as powerful as sophisticated algorithms.

COLOMBIA

Gomez-Clark: AI can certainly accelerate specific aspects of the insolvency and risk analysis process, from early-warning models that flag liquidity deterioration to automated reviews of financial statements and predictive scoring of debtor viability. However, as in many other industries, AI has become a buzzword, and it is essential to distinguish between what it can do and what it should do. Recent global experiences have reminded us that technology cannot replace human judgment, critical thinking and the ability to connect dots across financial, operational and behavioural dimensions. This is particularly true in restructuring. No algorithm can replicate the intuition, empathy and contextual understanding required to craft a viable turnaround. What works for one company may not work for another, even under similar macroeconomic pressures such as rising interest rates. Every distress situation carries a unique mix of financial, operational and governance challenges that require bespoke, experience-driven solutions. AI is undoubtedly becoming a powerful co-pilot, one which enhances diagnostics, accelerates data analysis and



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improves transparency, but the pilot must remain human. In restructuring, it is not data that saves companies; it is the wisdom to interpret it correctly.

FRANCE

Nerguararian: Emerging technology, and AI in particular, is significantly transforming the legal industry, including the distress and turnaround segment, at an unprecedented speed. Predictive analysis, modelling systems and early warning mechanisms can certainly help assess risks. Likewise, AI can help conduct due diligence on documentation placed in a data room, as well as summarise precedents and previous behaviours of the key stakeholders involved faster than any legal team could do within the same period, allowing management to engage more efficiently with its key stakeholders. However, this requires careful oversight, particularly as each set of circumstances and negotiation dynamics present their own specificities and require a bespoke solution that only experienced lawyers can provide.

SWITZERLAND

Meili: AI tools can be valuable in risk assessment, early detection of financial distress and structured turnaround planning. Using predictive analytics, companies can leverage historical data, statistical models and machine learning to forecast future outcomes and behaviours. This enables proactive action, helping

As the pandemic support measures tapered down, we noted a significant uptick in distressed sales, because ailing companies reacted too late to restructure. This has translated essentially into an increase in sale plans in insolvency in 2023-24.

FRANCE CAROLE NERGUARARIAN
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companies to mitigate risks and seize opportunities. For example, such tools can help identify potential liquidity shortfalls or overindebtedness at an early stage to prevent insolvency. In addition, AI-driven simulations allow companies to evaluate various restructuring options or to optimise business processes during times of financial instability. However, it is important to emphasise that while AI has significant potential, it should not replace human decision making or legal expertise. Rather, AI should serve as a complementary tool that supports but does not substitute personal judgment and qualified legal advice.

FW: HOW IS DISTRESSED M&A EVOLVING IN TERMS OF DEAL VOLUME, INVESTOR APPETITE

AND STRATEGIC APPROACH? WHAT FACTORS ARE MOST INFLUENCING BUYER BEHAVIOUR IN TODAY'S RESTRUCTURING ENVIRONMENT?

FRANCE

Nerguararian: There are two types of distressed M&A in France. One is the sale of shares in a distressed entity ahead of any public insolvency process – through a court-approved conciliation process. Alternatively, if the target's situation is unsalvageable, the sale will take the form of a sale plan of the debtor's business in insolvency, in which case bidders are free to cherry-pick those assets, jobs and contracts they are interested in for a lumpsum, without the debt pertaining to it, save exceptions. As the pandemic support measures tapered down, we noted a

significant uptick in distressed sales, because ailing companies reacted too late to restructure. This has translated essentially into an increase in sale plans in insolvency in 2023-24. We now tend to see a combination of both options, noting a stronger appetite from hedge funds and private equity (PE) funds to invest in these risky deals, while groups are sometimes eager to divest their French branch, even for a negative price, as quickly and quietly as possible, ahead of any insolvency process. We expect that distressed M&A deal flow will remain strong in the coming years. The key drivers for bidders will be both macroeconomic, such as the current unpredictable political and economic environment in France, leading to more regulatory and tax uncertainties, as well

as high funding costs, and case-specific, such as the capacity of a restructured business to cover debts, the capital expenditure needed and the competition for distressed assets.

SWITZERLAND

Meili: The volume of distressed M&A transactions continues to grow significantly. However, rather than being acquired in full, many companies are being sold in parts or selectively through carve-outs. Also, the Swiss pre-pack procedure, through which a company can prepare and sign an asset deal ahead of filing for composition proceedings, is being used more frequently to facilitate restructuring-oriented transactions. Investor appetite is generally rising as PE funds, opportunistic investors

and strategic buyers are actively seeking distressed assets, provided the entry price is attractive, there is real turnaround potential and a viable recovery path is in sight. The Swiss legal framework, particularly the composition proceeding, is sometimes seen as less flexible than frameworks in certain common law jurisdictions because certain actions require court approval. However, in our experience Swiss courts usually act within a few days in these matters and a court approval has the advantage of protecting the negotiated transactions or settlements from avoidance claims.

COLOMBIA

Gomez-Clark: Distressed M&A in Colombia has shrunk in volume but become more sophisticated in structure. Opportunistic purchases are giving way to credit-driven acquisitions, where investors seek control through debt rather than equity. The rise of private credit and special situations funds, filling the gap left by banks, has reshaped transactions into hybrid deals combining DIP loans, structured refinancing and equity conversion options. Investor appetite remains strong for mid-market companies that are operationally viable but overleveraged, especially in manufacturing, logistics and healthcare. Lower inflation, a firmer peso and insolvency reforms in December 2024 have increased confidence in creditor protections and execution speed. Buyer behaviour is now defined



Distressed M&A in Colombia has shrunk in volume but become more sophisticated in structure. Opportunistic purchases are giving way to credit-driven acquisitions, where investors seek control through debt rather than equity.

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by discipline, data and downside protection – credit is the new equity. Over the coming months, Colombia's market will likely favour structured, privately financed consolidations that turn distress into strategic opportunity rather than liquidation.

SOUTH AFRICA

Whalley-Hands: Distressed M&A in South Africa is evolving into a more strategic, disciplined market. PE investors are pivoting from large buyouts to mid-market, impact-driven acquisitions, with trade exits and secondary sales signalling improving liquidity. Investor appetite has become increasingly selective – buyers are prioritising cashflow predictability, governance visibility and turnaround viability over headline valuations. Many transactions are now executed through business rescue, where agility in post-commencement funding and strong oversight of capital deployment are critical to success. Activity remains moderate but steady across mining, retail and manufacturing – sectors offering tangible assets and operational leverage that support recovery potential. However, deal timelines are often extended due to complex due diligence, particularly around legacy liabilities and financial transparency. Currency volatility and heightened regulatory oversight, notably by the Competition Commission in concentrated sectors such as agribusiness, continue to influence deal feasibility. As the African

market matures, investors are moving beyond opportunism toward strategic transformation – focusing not only on who can fund a deal, but increasingly on who can operationally fix and sustain the business.

NETHERLANDS

Volkers: Distressed M&A shows an increase in 2025, although the market remains unpredictable. The market is driven by factors like rising bankruptcies, high inflation and lingering debt from the pandemic. The retail, hospitality, wholesale and consumer markets sectors remain vulnerable, while other sectors like industrials, energy and automotive are also navigating economic challenges such as rising capital costs and labour shortages. More activity is anticipated. The maturation of the Court Approval of a Private Composition (Prevention of Insolvency) Act as a restructuring tool has made the Netherlands increasingly attractive for cross-border distressed transactions, with successful large-scale restructurings like Vroon, Diebold Nixdorf and McDermott – which all include debt-for-equity swaps – demonstrating its effectiveness at implementing distressed M&A transactions in restructurings. The potential revival of pre-packaged asset sales is significant, following the European Court of Justice's decision in *Heiploeg* which shed new light on the Dutch pre-pack, noting that the purchaser of the bankrupt undertaking is not required to take

on all the employees, provided that the pre-pack proceedings concern liquidation and have a statutory or regulatory basis. Thus, it is up to the Dutch legislator to implement the required statutory basis, which may still take considerable time.

UNITED KINGDOM

Asimacopoulos: Distressed M&A is becoming more strategic and sector-focused, with buyers targeting assets that offer operational upside or platform potential. While deal volume is rising amid increasing corporate distress, investor appetite remains selective, favouring situations with clear value creation levers post-restructuring. Buyer behaviour is shaped by macroeconomic uncertainty, tighter financing conditions and accelerated sale processes. Legal complexity – particularly in cross-border deals – and reputational risk are also key considerations. Investors now prioritise speed, execution certainty and post-deal turnaround capability. Private capital and special situations funds are especially active, often deploying equity-heavy structures and leveraging in-house restructuring expertise. The ability to move quickly while navigating risk has become a core differentiator in today's environment.

FW: AS WE LOOK AHEAD, WHAT FORCES DO YOU EXPECT TO SHAPE THE NEXT WAVE OF CORPORATE BANKRUPTCIES

AND RESTRUCTURINGS? HOW SHOULD STAKEHOLDERS PREPARE ACCORDINGLY?

SWITZERLAND

Meili: The uncertainties surrounding international trade and economic policy pose trade risks which can result in unexpected costs and delayed production. Stakeholders can prepare by stress testing and scenario planning. They should also consider whether to invest in technology to become more efficient and to simplify operations. From a legal perspective, businesses and the board of directors need to know what legal obligations they have when their business is struggling to be able to quickly implement necessary measures and avoid directors' liability. Restructuring tools are available in Switzerland, including composition proceedings which are becoming more relevant and popular.

COLOMBIA

Gomez-Clark: Colombia's market has already internalised post-pandemic macro variables, with inflation near 5 percent, interest rates around 8-9 percent and recent labour reform adding structural cost pressures. However, exchange-rate volatility remains a key risk, influencing import-dependent industries and investment confidence. By sector, healthcare remains in a critical condition, in the grip of liquidity and reimbursement crises that will likely trigger new restructurings.

Energy, oil and gas are also expected to dominate the next wave of bankruptcies, driven by regulatory uncertainty and delayed capital expenditure. Entering an election year, investment decisions will slow, and sociopolitical uncertainty could spill into consumer and infrastructure sectors. Stakeholders must therefore strengthen liquidity control, review capital structures and anticipate covenant breaches early. Those who act pre-emptively, supported by disciplined cash management and proactive engagement with creditors, will be best positioned to preserve value as the next restructuring cycle unfolds.

SOUTH AFRICA

Whalley-Hands: The next wave of restructurings across Africa will be faster, more informal and more complex. In South Africa, persistent liquidity strain, elevated interest rates and currency volatility will continue to test corporate resilience. Distress will increasingly result from the convergence of external shocks – energy instability, trade disruptions and inflation – with internal weaknesses such as governance gaps and ageing infrastructure. As a result, mid-sized businesses are expected to favour informal or hybrid restructurings, seeking speed and discretion over lengthy legal proceedings. Formal business rescue mechanisms remain constrained by slow judicial processes and limited post-commencement funding, though it will be important to see whether the new insolvency court pilot

can meaningfully accelerate case throughput and enhance outcomes through legal specialisation. For now, lenders and advisers are likely to continue to pursue consensual, adviser-led solutions. Stakeholders that monitor warning signals early, maintain transparency with financiers and act decisively to preserve value will be best positioned to steer through the next restructuring cycle with credibility and control.

NETHERLANDS

Volkers: Several forces will converge – continued moderate increases in bankruptcies as the market normalises post-pandemic, weakening economic conditions, geopolitical uncertainties, particularly new sanctions and trade barriers from protectionist policies that could disproportionately impact open economies such as the Netherlands, and persistent pressure on highly leveraged sectors. Structural transformation in automotive, industrial and manufacturing, driven by electrification and Asian competition, will generate significant distress. The retail and consumer sectors face ongoing challenges from cost increase, supply chain disruptions and the continued shift to digital commerce. Stakeholders should prepare by conducting stress tests assuming prolonged elevated interest rates and reduced consumer spending, and understanding the strategic advantages of different restructuring tools, and maintaining

flexibility in capital structures to enable swift action when needed. Directors should be aware that Dutch law does not have a rule for directors to file for bankruptcy upon failing a balance sheet test, for example, but under proposed EU directive changes, Dutch directors will face mandatory filing obligations within three months of becoming aware of insolvency, making early intervention not just prudent but legally necessary.

FRANCE

Nerguararian: The next wave is likely to be stronger than expected if the political and economic

uncertainties persist in France. In this unsettling environment, groups and debtor companies may be tempted to 'kick the can down the road' in the hope of a market recovery in a couple of years' time. Stakeholders may therefore be more inclined to negotiate amend and extends or even try LMEs, with the associated risk of creditor on creditor violence, ahead of any judicial restructuring process, each time to buy time. We expect that stakeholders will negotiate these deals more fiercely in anticipation of the next round of judicial restructuring, having in mind the new dynamics introduced

by the 2021 reform with cram-down and cross-class cram-down mechanisms. ■

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