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Q2 spike in England and Wales corporate insolvencies reflects broader global trend

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Reports last week of the significant increase in corporate insolvencies and voluntary liquidations in England and Wales for Q2 demonstrate the combined impact of government COVID-19 support being withdrawn, soaring energy and fuel costs, and weakening demand – and are being reflected in the nature of the instructions coming into our global jurisdictions from distressed companies across the globe.

In BVI there has been a flow of traditional insolvency-side mandates and we have seen a shift in pre-enforcement insolvency and restructuring advice required by security trustees and finance parties, which may be a sign of parties getting their "ducks in a row".

In Cayman, the steadiest flow of restructuring work post-COVID is from the Asian markets, although liquidity challenges are starting to be seen elsewhere as sources of capital become more constrained. Investors and investment managers are showing less tolerance for liquidity excuses but are taking strategic steps rather than aggressive action at this stage. Jeremy Snead, London-based partner in the Cayman Restructuring and Corporate Recovery team said "with the introduction of the new Cayman Islands Restructuring Officer regime at the end of August the Cayman Islands may begin to be seen as a more debtor friendly jurisdiction but whether this changes the restructuring landscape in practice remains to be seen, as secured creditors continue to be able to enforce their security without reference to the Restructuring Officer or the Court."

In Guernsey, the wave of expected insolvency work has not yet begun, although administration applications have been seen last year, as well as less classic insolvency related work, like fraud enquires, for example. Similarly with our other jurisdictions, the non-contentious side of restructuring work has been more prevalent.

In Hong Kong, in respect of BVI/Cayman in Asian markets, there has been a lot of front end and intricate restructuring work that hasn't necessarily been insolvency related. The well-publicised strain in capital markets in China is expected to bear more restructuring fruit throughout the year and we have received instructions relating to various Chinese-related bond issues. In addition, we have seen the rather blunt antecedent tool of statutory demands increasing. This may portend of the start of the expected wave of distressed debt restructuring in the market.

In Ireland, the level of corporate insolvencies remained artificially low for the first six months of 2022. This is expected to change significantly in the coming months as Government supports and subsidies are withdrawn, and companies face substantial challenges due to labour storages, high inflation, and low consumer spending. By comparison, the liquidation rate in England and Wales is four times greater than in Ireland, where government supports were withdrawn earlier. Market expectation is that there will be a gradual uptick in insolvency rates for the remainder of 2022 with levels rising substantially as we enter 2023.

In Jersey, we have seen little uptick in instructions of note at this stage. Similarly with other jurisdictions, there is a lot of contingency planning being seen, and with a large banking and finance market, the increase in interest rates is something to keep a keen eye on together with how the credit institutions react with their borrower counterparts – this being a key horizon issue across all our jurisdictions.

Christian Burns-Di Lauro, partner in Ogier's Restructuring and Corporate Recovery team, said: "Credit institutions will undoubtedly play their part in the financial markets by working with businesses to amend existing credit facilities to help stabilise the uncertainly of potential insolvent restructuring scenarios to extend their life expectancy during this unknown period of uncertainty.

"However, with China – one of the world's largest net-exporters – pursuing a zero-COVID policy, and with soaring energy prices exacerbated by Russia, the longer-term global supply-chain disruption may well lead to further insolvent casualties that non-contentious restructuring may not be able to save."

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