

AMSTERDAM

Insolvency Law Developments in France

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Framework

- 2005 Law:
 - Conciliation (*“conciliation”*)
 - Ad hoc representative (*“mandat ad hoc”*)
 - Safeguard proceedings (*“procédure de sauvegarde”*)
 - Reorganisation proceedings (*“redressement judiciaire”*)
 - Liquidation (*“liquidation judiciaire”*)



Legislative developments

- **2008 Order** to increase attractiveness of 2005 Law for debtors and reinforce involvement of creditors (in particular, safeguard proceedings)
 - In force as of 15 February 2009: 153 amended articles with accompanying decree (156 amended articles)
- **2008 Law** on finance to introduce fiscal opportunities/accommodation
- **2009 Decree** to encourage/facilitate public authorities to remit/pardon debt



Legislative developments (related)

- **2009 Circular** Eric Woerth to URSSAF to reinforce the 2009 decree
- **2009 Agreement** between various social security departments



Trends

- Cultural change/trend evidenced by
 - 2009 Decree, Circular and Agreement
 - Private and public debt no longer linked
 - Commitment to fast turnaround/automatic remission of penalties/single contact point etc
 - 2009 fiscal accommodation
 - Small/medium sized companies may deduct losses in EU/convention foreign subsidiaries
 - 2009 Credit mediator



“Prepack” à la française

- Combined use of :
 - conciliation/ad hoc representative/mediation; and
 - safeguard proceedings
- New in 2009:
 - Possible for 2/3 majority of creditors who cast a vote to impose workout, subject to Court approval
 - Committees are given 20 to 30 days to vote. Their vote has to be cast within the 6 months following the commencement of the safeguard proceeding
 - Ability to transform debt into capital as part of Court approved workout

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- Case studies – successes & failures
 - Autodistribution
 - Plaisance Ponsin Yachts
 - Monier



Selected statistics for 2008

- Fall in number of LBOs in France
 - 70% (Global) (Source Les Echos 8 January 2009)
 - 52% (France) (Source l'AGEFI 12 January 2009)
- Increase in corporate bankruptcies:
 - 27% (Global) (Source Euler Hermes SFAC)
 - 13.1% (France) (Source INSEE)
- 50% of LBO financing anticipated to default over next 3 years (Source Boston Consulting Group, Dec 2008)



Selected statistics for 2008 (cont)

- Increase in use of safeguard proceedings
 - Up 36.3% over last 12 months (Source AGS)
 - Up 100% during first 09 quarter (Source Les Echos 21 April 2009)
 - Cf 10.7% increase in reorganisation/liquidation proceedings (Infogreffe)
- But safeguard proceedings constitute <2% of total collective insolvency proceedings