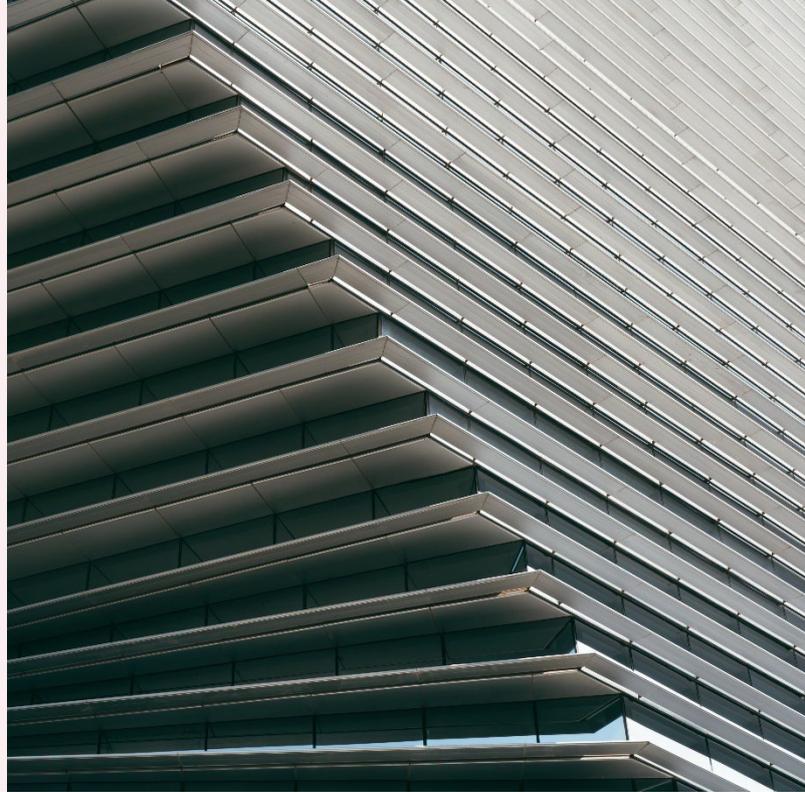


EU Directive Harmonising Certain Aspects of Insolvency Law: adopted by the Council

1 April 2026



Harmonising insolvency regimes – reduce divergence, increase certainty, predictability and recoveries

The EU Directive harmonising certain aspects of insolvency law was adopted by the Council on 30 March. The Directive marks a significant milestone in the EU's long-running efforts to reduce fragmentation across national insolvency regimes. The Directive, part of the EU's Capital Markets Union agenda, introduces targeted minimum harmonisation in a number of core areas of substantive insolvency law, with the objective of improving legal certainty, predictability and recoveries for creditors and investors operating on a cross-border basis.

For debtors, lenders, funds and other capital providers, the Directive is intended to address long-standing concerns around divergent national rules that increase diligence costs, complicate risk pricing, and produce uneven recovery outcomes across Member States. The Directive establishes common baseline standards, while allowing Member States to maintain or introduce higher levels of creditor protection. The aim is to make insolvency outcomes more transparent, comparable and efficient across the EU.

The adopted text focuses on a limited number of high-impact areas that are particularly relevant to credit risk assessment and enforcement strategies, including:

Pre-packs: Minimum EU-wide framework for pre-packs, at least for debtors that are likely to become insolvent (as determined by relevant national law). The process is split into two phases – preparation (debtor at least partially in control, appointment of monitor who will apply "best interest of creditor test") and liquidation (opening of formal insolvency proceedings, monitor appointed insolvency officeholder). In a pre-pack, contracts essential for the continuation of the business will automatically be transferred from debtor to buyer, without

counterparty consent. Member States may provide that the consent of the debtor's counterparty or counterparties is required depending on the type of contract, the quality of the parties, or the interests of the business. Certain types of contract (e.g. netting agreements) have been carved out. Member States may provide for termination rights where the assignment would unfairly prejudice the counterparty. Workers' rights will remain fully protected. Pre-pack frameworks are expected to enhance predictability and recovery prospects for lenders and investors, while leaving scope for national implementation choices under a minimum-harmonisation approach.

Creditors' Committees: Creditors' Committees are important for contributing to a predictable and fair distribution of recovered value among creditors. The Directive requires Member States to ensure a framework allowing for the establishment of creditors' committees where creditors so decide or request. Certain characteristics are harmonised (e.g. composition, working methods of the committee, personal liability of members, removal of members). Member States may determine that Creditors' Committees should not be established where, due to the nature and scope of the debtor's business, they determine that the burdens of its establishment would outweigh the benefits.

Directors' Duties: A new minimum standard, providing for a clear obligation on Directors to submit a request for the opening of insolvency proceedings within 3 months of becoming aware, or being reasonably expected to have become aware, of the insolvency (as defined by national law). If Member States already provide for a shorter period of time, that higher threshold will survive. This duty may be suspended if other measures to protect creditors, providing for a level of creditor protection that is equivalent to the protection provided by the duty to file for insolvency, are taken instead.

Avoidance Actions & Asset Tracing: Minimum standards for avoidance actions – Preferences, Transactions for no or manifestly inadequate consideration, Transactions intentionally detrimental to creditors (with certain carve-outs, including for netting arrangements) -and improved access to asset registers will enhance transparency and recovery prospects.

Transparency: Each Member State will publish a key information factsheet outlining its insolvency regime, making it easier for investors to understand local rules.

Opportunities

Overall, the Directive is expected to support the EU's broader objective of facilitating cross-border investment by reducing legal friction and enhancing confidence in enforcement outcomes. While national implementation choices will remain critical, the introduction of common standards in selected areas of insolvency law represents a further step towards greater convergence across Member States.

For investors, this is likely to translate into more transparent and comparable insolvency frameworks over time, supporting more consistent risk assessment and recovery analysis across jurisdictions. Taken together, the measures constitute an incremental but meaningful development in the European insolvency landscape and a further contribution to the Capital Markets Union agenda.

Next steps

Member States will have two years and nine months from entry into force to transpose the Directive into national law.

Want to learn more?

Reach out to a member of the Restructuring & Insolvency team or check our previous briefings:

- [EU Directive Harmonising Insolvency Law: An Investment Opportunity](#)
- [Another step closer: Draft EU directive harmonising certain aspects of insolvency law](#) (June 2025)
- [EU proposal for a directive harmonising certain aspects of insolvency law](#) (Dec 2024)
- [More harmonisation of insolvency laws is on its way across Europe](#) (Dec 2022)

or take a look at our [Debt Restructuring Guide](#).



Ilse van Gasteren
Partner, Amsterdam

ilse.vangasteren@cliffordchance.com

+31 20 711 9272



Delphine Caramalli
Partner, Paris

delphine.caramalli@cliffordchance.com

+33 1 4405 5240



Miloš Felgr
Office Managing Partner, Prague

milos.felgr@cliffordchanceprague.com

+420 222 555 222



Stefanie Ferring
Partner, Luxembourg

stefanie.ferring@cliffordchance.com

+352 48 50 50 253



Felipe Font
Partner, Madrid

felipe.font@cliffordchance.com

+34 91 590 7567



Miłosz Golab
Partner, Warsaw

miłosz.golab@cliffordchance.com

+48 22 429 9441



Fabio Guastadisegni
Partner, Milan

fabio.guastadisegni@cliffordchance.com

+39 02 8063 4353

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

cliffordchance.com

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ

© Clifford Chance 2026

Clifford Chance LLP is a limited liability partnership registered in England and Wales under no. OC323571. The firm's registered office and principal place of business is at 10 Upper Bank Street, London E14 5JJ. The firm uses the word "partner" to refer to a member of Clifford Chance LLP or an employee or consultant with equivalent standing and qualifications.

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi • Amsterdam • Barcelona • Beijing • Brussels • Bucharest** • Casablanca • Delhi • Dubai • Düsseldorf • Frankfurt • Hong Kong • Houston • Istanbul • London • Luxembourg • Madrid • Milan • Munich • Newcastle • New York • Paris • Perth • Prague** • Riyadh* • Rome • São Paulo • Shanghai • Singapore • Sydney • Tokyo • Warsaw • Washington, D.C.

*AS&H Clifford Chance, a joint venture entered into by Clifford Chance LLP.

**Clifford Chance has entered into association agreements with Clifford Chance Prague Association SRO in Prague and Clifford Chance Badea SPRL in Bucharest.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.



John MacLennan

Partner, London

john.maclennan@cliffordchance.com

+44 79 0016 7284



Tim Lees

Partner, London

tim.lees@cliffordchance.com

+44 7 92 918 4558



Stefan Sax

Managing Partner, Germany

stefan.sax@cliffordchance.com

+49 69 7199 1549



Dorothee Vermeiren

Partner, Brussels

dorothee.vermeiren@cliffordchance.com

+32 2 533 5063



Evert Verwey

Senior Counsel, Amsterdam

evert.verwey@cliffordchance.com

+31 20 711 9681



Iain White

Partner, London

iain.white@cliffordchance.com

+44 7 92 0016 7052