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What insolvency trends were you seeing before the pandemic?

It's almost hard to remember things before this new environment. Looking back at the financial system, the banks were pretty well capitalised. We were seeing the emergence of cov-lite structures and if there was restructuring it was driven by liquidity needs rather than underperformance, as you could underperform quite a way before hitting any triggers. There were some sectors showing stress. Automotive was one – there were thin margins and tight delivery requirements in supply lines. The other areas were retail, where there were definite headwinds, and some casual dining. You were starting to see the emergence of more CVAs to re-align store portfolios and also seeing a big shift in the impact of technology. There were headwinds and definite winners and losers in retail. The other thing was uncertainty around Brexit – were we going to get a trade deal or not? That was feeding uncertainty into the market.

Then the pandemic hits – how did you see that playing out?

I remember when we left the office in March, saying: "You know, it could be as late as May until we're back". You have a sense that it's an issue, but then it becomes a long-term issue. The government got the furlough scheme under way and then started to get the financing scheme under way, but when you look at it, the fiscal stimulus was not as generous as many other countries. I saw some data about what percentage of GDP had been committed to the fiscal stimulus – the UK committed something like 4.9% of GDP, where a lot of European countries committed between 6% and 8%. In the media there's been less comment about the effectiveness of UK government support for business compared to other countries – most comment has been about infection rates, how many people have died.

What impact have those measures had on the insolvency market?

Had the [UK] Government not acted, we'd have had a massive wave of insolvencies, so we've created a real backlog of insolvency because of the forbearance, support and restrictions on being able to act. The Government response to delay this is absolutely the right thing to do, because otherwise you're not going to achieve anything from an economic perspective [in a lockdown].

The insolvency activity has been stalled, but it will come back later this year and early next year. That backlog needs to work through because there will need to be re-allocation of the assets and resources away from something not working into something that is working.

In terms of if [the UK Government] have struck the right balance or are simply propping up failing companies, I suppose they're doing both. They're suspending the impact of necessary insolvency for a later date, when it can be more productive.

> "We're investing a lot in Singapore – as the hub for the ASEAN region, we see being there as really critical."

If the aim was valid, were the UK Government's specific tools well judged?

They could have been more discriminating. Look at how many corporates accessed furlough support when there was no way they should have. Some of it has been claimed by highly profitable businesses. Inevitably, there's going to be some collateral damage around directing funds, but I still think the support was probably less than it could or should have been. The response in providing liquidity to business was good – that seems to have worked well. But the level of support on the furlough – if you look at what was available in Singapore, it was much more attractive and there wasn't the uncertainty about when it was going to be pulled.

How significant are you expecting the insolvency cycle to be post-Covid?

I anticipate [that in] the second half of this year, perhaps fourth quarter and spilling over into next year, there's going to be a lot of activity. When the support is tailing off, the dam will burst. Some of the support comes off quite quickly, other support comes off more slowly. Some of the loan schemes unwind under a three-year period, where the furlough comes off immediately. There will be some changes on the restrictions on terms of leases – that'll come off straight away, so you could see a lot of pressure very quickly. Landlords will seek to operate in their own interests – it will be interesting to see how they react.

How do you see the dynamic playing out with office landlords?

There will need to be re-alignment in supply and demand. There are different views being taken on what the new normal will be. Some are planning to take the benefits of home working, but going back to spending most of the time in the office. With growth over five years, you might not notice the difference. Others are saying that this is the catalyst for radical change in the way people work. The jury is out. Listen to Barclays CEO Jes Staley: he's got a very strong view about getting back into the office; NatWest CEO Alison Rose is at the other end of the spectrum.

Which sectors will be most impacted by insolvency?

There is no doubt that retail will be significantly affected – particularly when the moratorium on landlords enforcing is lifted, accompanied by the threat of binding arbitration to deal with Covid closure rent arrears. The sectors that have struggled – retail, food service, hospitality – will be in the front row of casualties. Automotive will definitely struggle – if you look at the data for new registrations, this uncertainty about how fast the take up will be on electric, disruptions to supply chains, thin margins...that's going to be a challenging sector. Oil and gas will be challenging because of issues around imbalances on supply and demand on pricing.

The other interesting thing is what is going to happen when we get high levels of vaccination and start to drift back to normal. If there's confidence, you could see a real boom. Though a reasonable percentage of the population have really struggled, there's also a decent percentage that saved money. They are not spending as much and they've kept their jobs. It could unleash more confident spending. The UK economy is quite resilient and, looking at some of the growth rates after the financial crisis, the UK could bounce back quite strongly. A lot will depend on consumer confidence.

> “Government Covid measures have stalled the insolvency market – that backlog will need to work through.”

With your Asia brief in mind, how do you see insolvency developing in the region?

There are some interesting macros. Singapore is interesting because the government is involved in everything. They’ve decided they want to be the financial centre in Asia where business is done, where contracts are written, where you arbitrate, where you restructure or finance your business, and it becomes a knowledge economy. They’ve invested a lot in infrastructure and the regulatory environment to make Singapore attractive, and I think they will succeed. We’re committing a lot of investment there. In the ASEAN region, the projected GDP growth over the next 10 years is absolutely phenomenal. For us, being in Singapore as the hub for the ASEAN region is really critical.

Singapore brought in a wide-ranging new insolvency law recently, which is regarded as very progressive.

Yes. It’s very progressive. The challenge remains that it needs to be embraced by the banking system there. Once that gains momentum, the new regime will be very effective.

How do you see the Brexit factor playing out in European insolvency?

It’s interesting. The European Insolvency regulation was really useful as a mechanism in insolvency and clearly we’re out of that now, but the other mechanism that is important that we’re out of is the Lugano Convention, which is about jurisdiction and recognition of judgments. There’s a desire to get back into that, and that would be really helpful. We are moving towards more universalism in our regime. The take-up of the UNCITRAL Model Law has been pretty poor in Europe, but universalism is here to stay, and the more flexibility we can get and creativity in restructuring earlier, and restructuring with more debtor-in-possession, is a good thing. The more efficient our economies can be in the way we deal with failure, the better for those economies. I was a Remainer, so feel Brexit was a mad decision, but we will find ways to be pragmatic and use other mechanisms to get the right solutions for restructuring.

The UK Corporate Insolvency and Governance Act has had a pretty good reception – what’s your take?

It gives us some interesting new tools. It’s early days but it’s interesting to see the restructuring plan being used in a number of large corporate cases, including the court approving the use of cram down. The cross-class cram down is really important, because having hold-out creditors is just inefficient and you’re forced to find ways to get around them with pre-packs, so it’s so much better to just to cram them down. We are moving more towards that universalism approach. Time will tell, there’s not been that many cases that have used that approach but it’s about signalling the direction we are heading in. There’s more restructuring done outside court than inside but what happens in court influences and shapes restructuring.

What big trends are you expecting in European restructuring over the next three-to-five years?

Despite Brexit, there will be more cross-border co-operation. There will be more pragmatic approaches to resolving underperforming businesses and creating value for stakeholders. The reason is the commercial value that can be created out of being more responsive but also because financial markets are becoming more sophisticated. Look at the different alternative asset classes available for investment into restructuring situations. The ways you can tap into that to generate value and change out of underperforming businesses will be good for all the people operating in this market but also business in general.

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