Debt restructuring in the UK and Spain

Is the grass still greener on the other side?

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Since the turn of the century, many foreign companies - including large Spanish groups - have resorted to the English scheme of arrangement procedure under part 26 of the UK Companies Act in order to restructure their debt. Between 2009 and 2015, EUR11 billion of Spanish debt has been restructured in English courts.

This article describes why and how these Spanish debtors forum shopped for a scheme of arrangement instead of using the local procedures available, and discusses attempts by the Spanish legislator to implement a similar restructuring tool in the Ley Concursal (Spanish Insolvency Act).

In view of Brexit uncertainty and the EU heavily promoting business continuity and rescue (for example, the recent EU Directive on preventive restructuring frameworks formally adopted by the European Council), this analysis is highly relevant for Spanish and other corporate debtors in the EU to assess whether an English scheme of arrangement will still be a preferable option for debt restructuring in the future.

This comparative study was awarded the gold medal in the International Insolvency Institute's 2019 competition.

Read the full article.

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