

Insurance Claims & Coverage

Directors & Officers | Exposures in a recessionary environment

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CMS Panel



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Objective



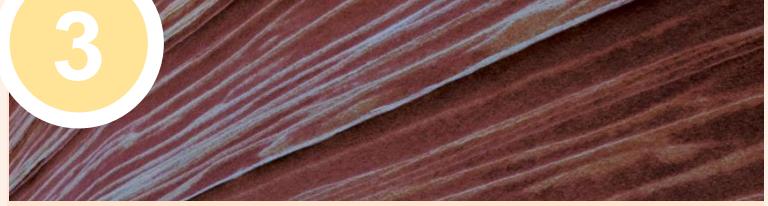
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The seminar will explore the exposures of directors & officers in a recessionary environment.



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In particular the types of claims that directors may face where their company becomes insolvent and the steps that they can take to mitigate against such claims.

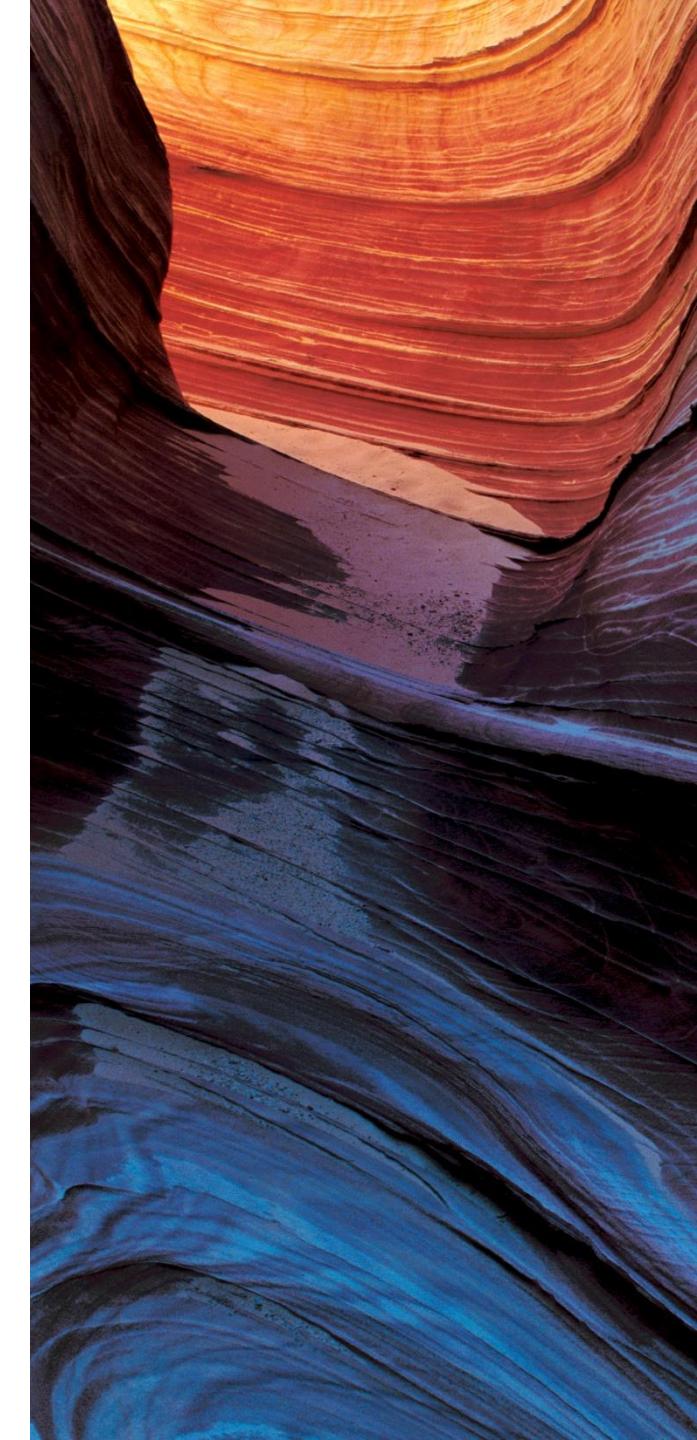


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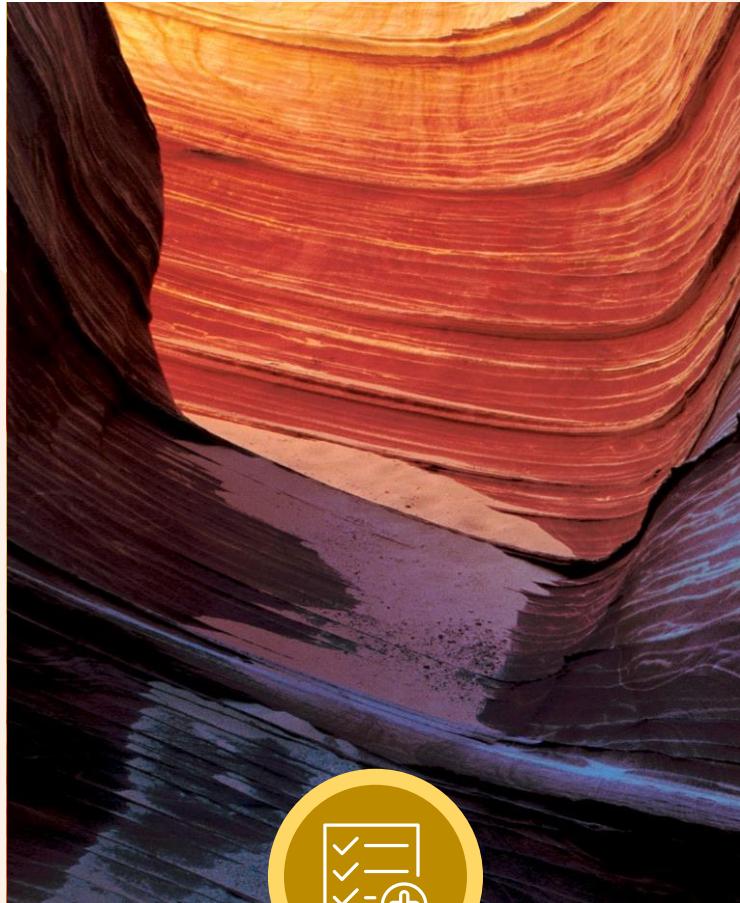
The panel will look at the exposures in England, Italy, Austria, Belgium and the Netherlands to provide a multi-jurisdictional overview.

Case Study

- Listed multinational; listed on LSE (London) and Euronext (Amsterdam). Trading subsidiaries in Italy, Austria & Belgium
- Long term fraud at Group & subsidiary level unearthed by new auditor
- Allegations that fraud orchestrated by CEO/CFO
- Fictitious revenue recognised; unauthorised payments to associated companies
- Group & subsidiary accounts need to be restated; banks withdraw funding
- Group/subsidiaries seek protection through insolvency procedures in UK, Netherlands, Belgium, Italy and Austria
- Insolvency office holders investigate & consider claims



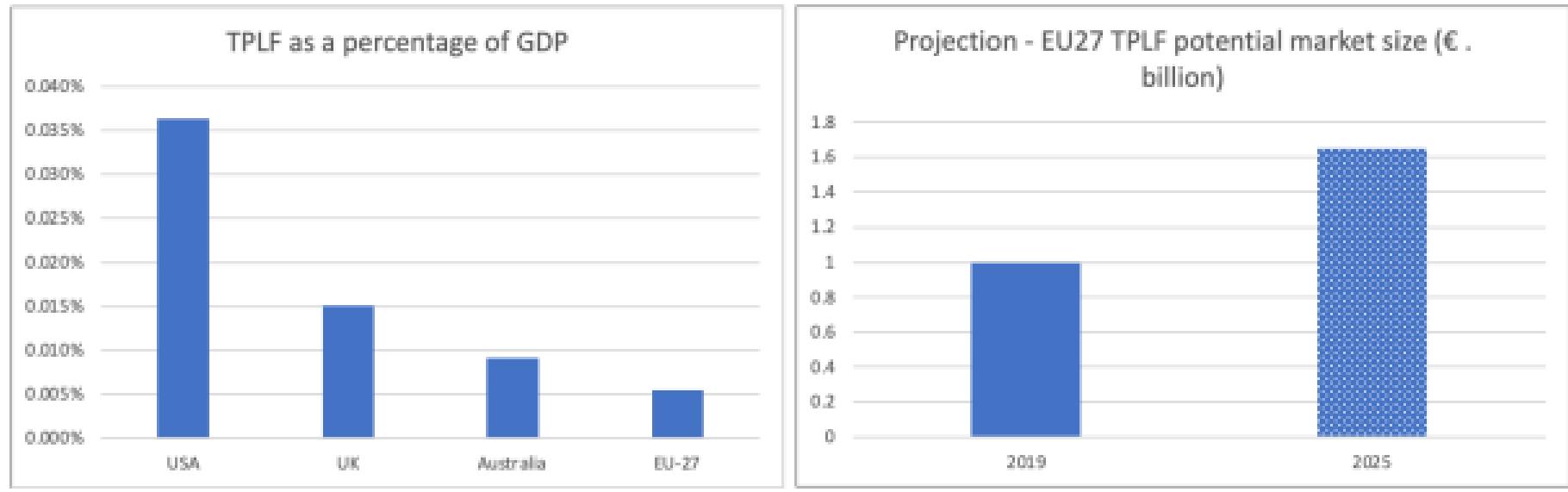
Agenda



- Basis for claims against directors of insolvent companies
- Availability of litigation funding/ability to ‘sell’ such claims
- What defences can directors advance
- Disqualification of directors
- Directors of listed & regulated companies
- D&O policies

Litigation funding on the rise

Figure 3 – EU TPLF market size and market size projection



(figure from report
European Parliamentary
Research Service dated
March 2021)

Funding Trends:

- Class Actions to companies and directors: consumer, investor, competition, ESG
- Trustee litigation and actions towards D&O
- Commercial litigation to counterparties and D&O (also well-capitalised claimants)
- Enforcement of foreign (arbitrary) judgments



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