



AMERICAN
BANKRUPTCY
INSTITUTE

International European Insolvency Symposium

Cross-Class Cramdowns Across Borders

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ABI 2024 International Insolvency and Restructuring Symposium “Cross-Class Cram-Down Across Borders”

28 OCTOBER 2024

KIRKLAND & ELLIS

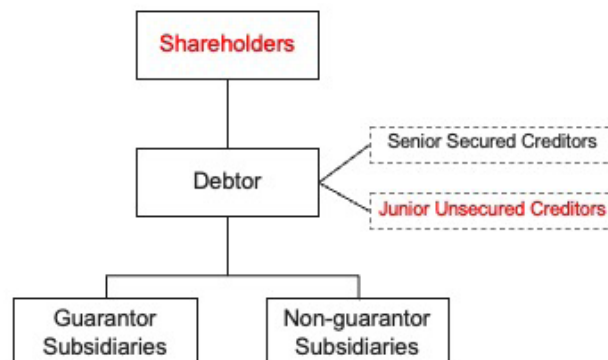
Weil

NautaDutilh

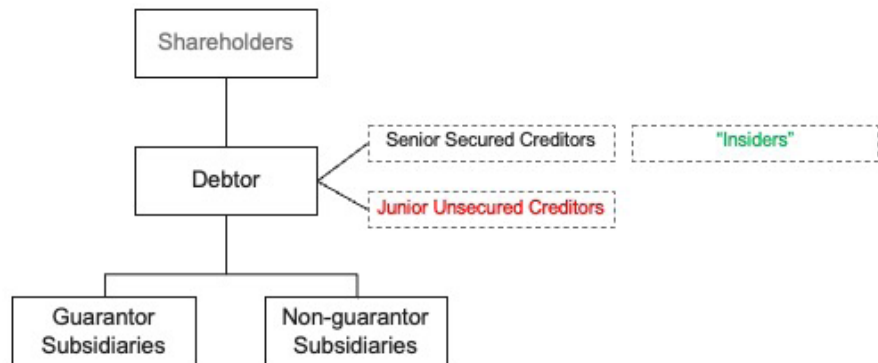
WONG PARTNERSHIP

CUATRECASAS

Who can cram whom? 1A. Cram-Down

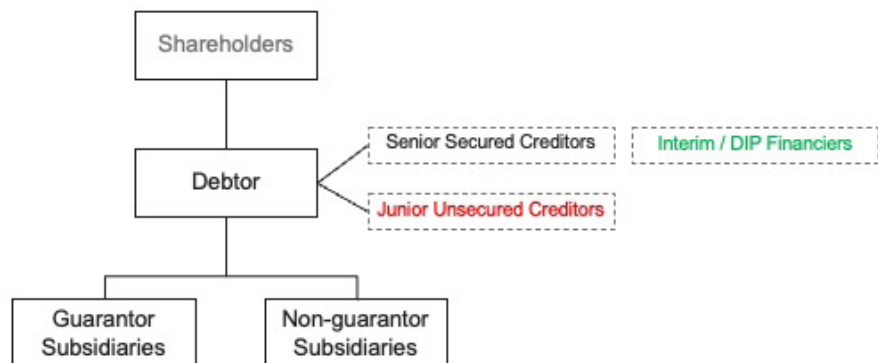


- ▶ Who can cram whom?
1B. Cram-Down using Votes of “Insiders”?



3

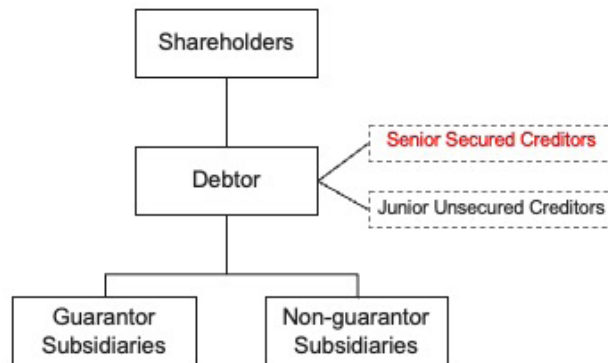
- ▶ Who can cram whom?
1C. Cram-Down using Votes of Interim/DIP Financiers?



4

Who can cram whom?

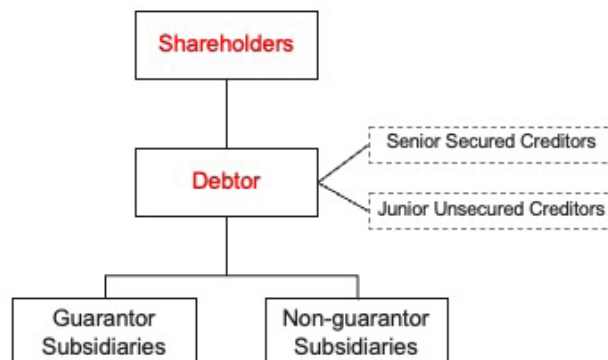
2. Cram-Up



5

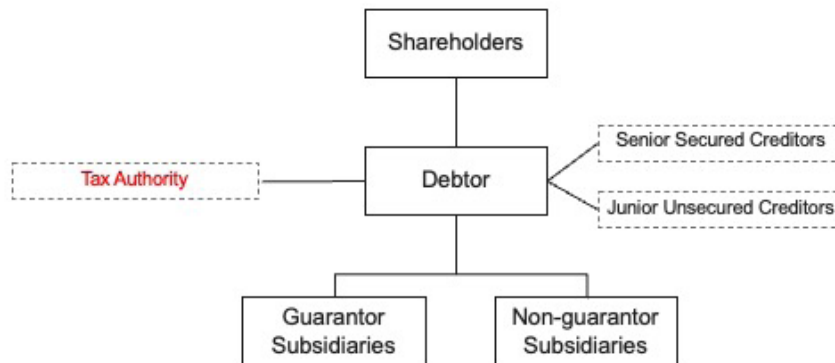
Who can cram whom?

3. Creditor-Led



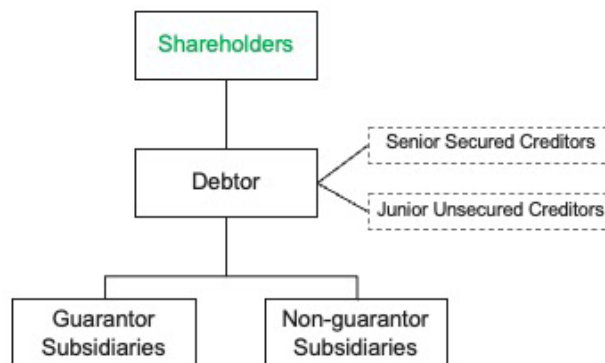
6

► Who can cram whom?
4. Tax Authorities



7

► Who can be left uncompromised?
5. Shareholders' retention of equity



8

Case Studies

KIRKLAND & ELLIS

MCDERMOTT

Bermudian-incorporated business
restructured in **Europe**, following
previous U.S. Chapter 11

Operations in **54 countries**

c.30,000 employees

1 UK
restructuring plan

2 Dutch WHOAs

U.S. Chapter 15
recognition

Parallel settlement
discussions

Unprecedented **six-day**
contested UK RP
sanction hearing; **15**
witnesses

Retention of equity by
existing shareholders

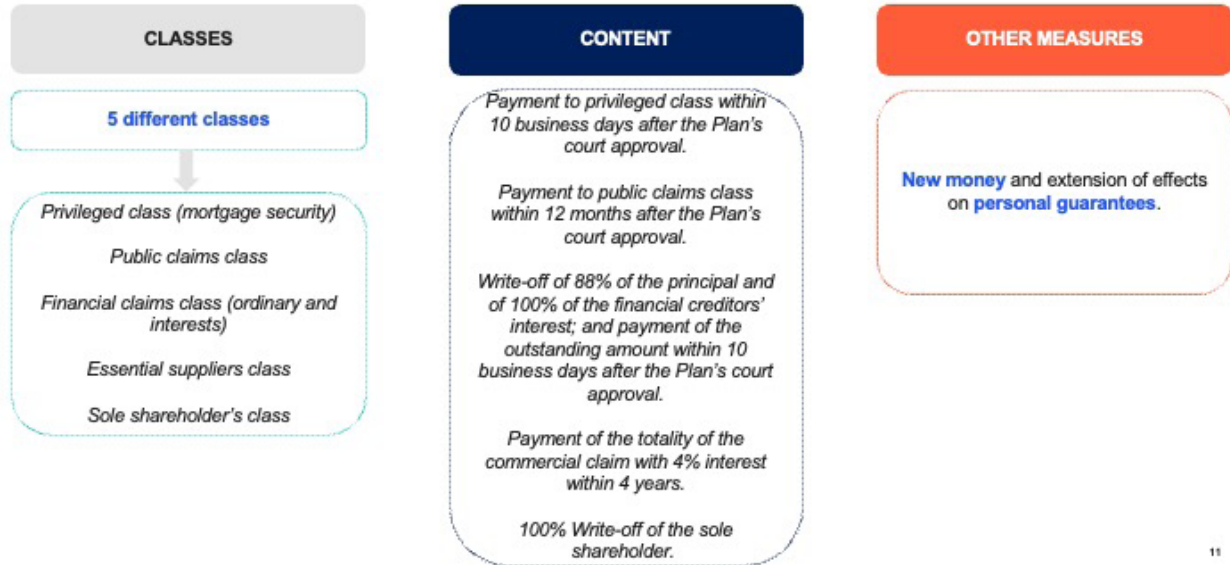
\$1.3 billion arbitration
award compromised

Extension of undrawn
credit facilities
(impossible in U.S.)

10



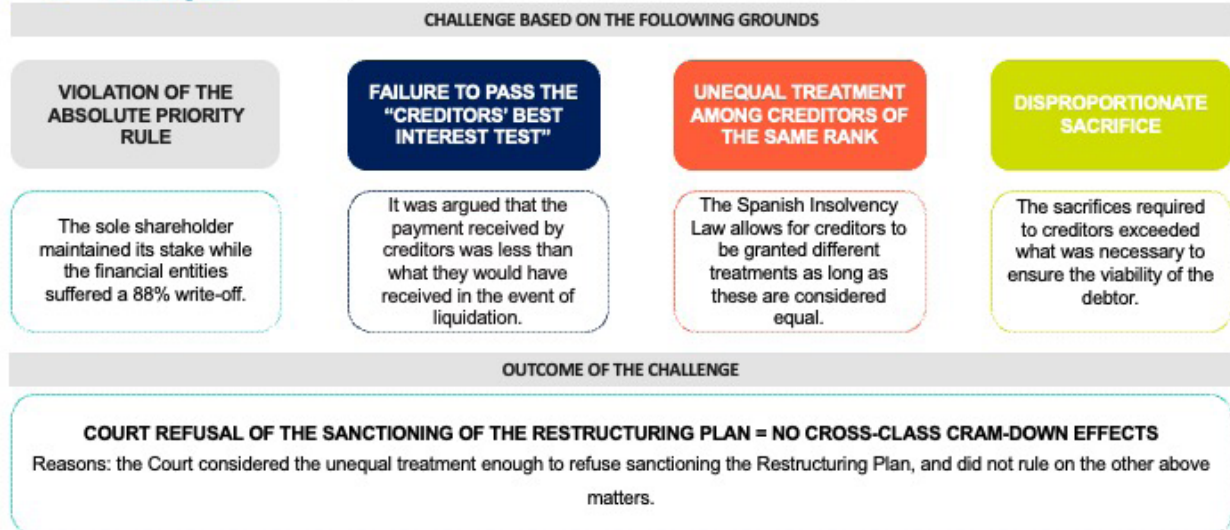
Content of restructuring plan



11



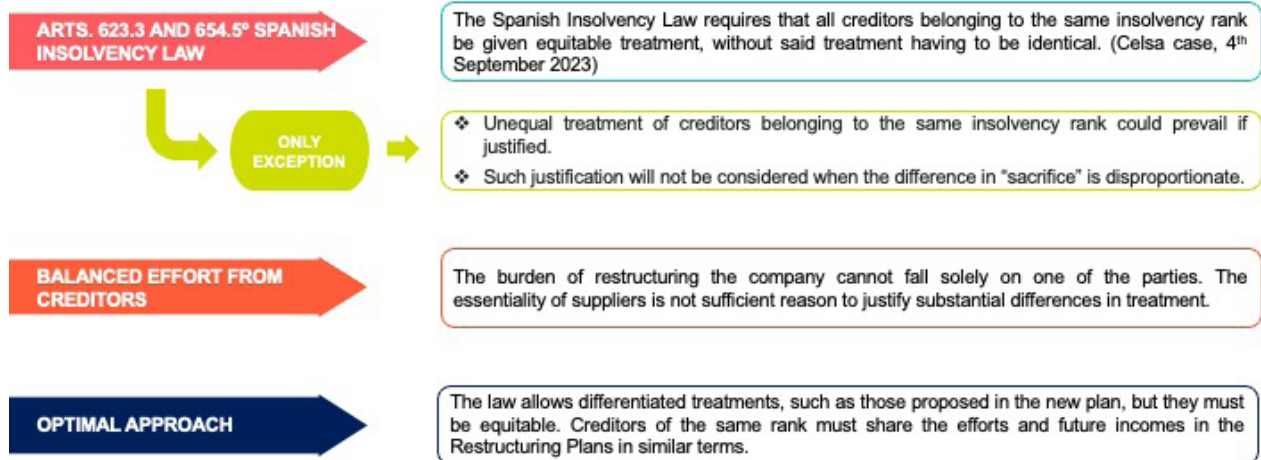
Judgment denying approval of the plan



12



(Un)Equal treatment of creditors



13



14

Faculty

Ignacio Buil Aldana is a partner at Cuatrecasas and head of its London office, as well as a member of its Finance Practice. He has been based at the London office of Cuatrecasas since September 2013 and is qualified to practice in Madrid and New York. Mr. Buil has experience in financing and debt-restructuring transactions (in and out of court) and in negotiating financing and refinancing agreements involving a wide range of capital structures, including refinancing LBOs, as well as in project, real estate and corporate finance. He represents borrowers and lenders and advises financial institutions, hedge funds and private-equity funds on financing and refinancing transactions and distressed investment strategies (including loan-to-own and direct lending). He has also participated in several national and multijurisdictional financing transactions and acquisitions of NPL portfolios. Mr. Buil previously was an associate in the New York office of Kirkland & Ellis LLP, where he represented several debtors and creditors in chapter 11 reorganizations, including advising on 363 sales and debtor-in-possession financings. He is the consulting editor of *Investing in Distressed Debt in Europe: The TMA Handbook for Practitioners*, which provides an overview of the European distressed-debt market. He has also published several articles in Spanish on international law and in business journals, including comparative law (US/Spain) articles on debtor-in-possession financing and distressed sales in insolvency (363 sales). Mr. Buil is a member of the Madrid Bar Association and the New York State Bar, and he is an associate professor at the Universidad Complutense de Madrid. He is listed in *Chambers Global* for Banking and Finance for 2018, and in *Chambers Europe* for Investment Funds for 2018. Mr. Buil received his Bachelor of Laws in 2005 from the University of Barcelona and his LL.M. in corporation law in 2008 from New York University School of Law.

Kelly DiBlasi is a partner in the Business Finance & Restructuring Department at Weil, Gotshal & Manges LLP in New York, where her practice focuses on debtors, creditors and equity interest-holders in all areas of domestic and international restructurings and crisis management, both in and out of court. Most recently, from 2023-24 she was recognized as a “Notable Practitioner” for Restructuring and Insolvency in the U.S. by *IFLR1000*, and she was named to *Lawdragon 500’s* X – The Next Generation list, named among the 500 Leading Global Bankruptcy & Restructuring Lawyers by *Lawdragon* (2020, 2022-24), and “recommended” for Restructuring by *Legal 500* (2023-24). In 2022, Ms. DiBlasi was named an “Outstanding Restructuring Lawyer” by *Turnarounds & Workouts* and a “Rising Star” for Restructuring and Insolvency in the U.S. by *IFLR1000* (2020 and 2022). In 2018, she was named one of ABI’s “40 Under 40” honorees and was recognized by the *New York Law Journal* as one of its “Rising Stars.” Ms. DiBlasi represents, on a *pro bono* basis, the N.Y. Police and Fire Widows’ & Children’s Benefit Fund, and she has helped several U.S. military veterans seeking assistance with applying for disability benefits. Her *pro bono* work also has included assisting a non-profit entity in connection with its out-of-court restructuring. Ms. DiBlasi has served as a teacher’s assistant at Cardozo School of Law and Harvard Law School. She frequently presents at bankruptcy seminars and participates in a variety of firm activities and initiatives focused on training, mentoring, recruiting and diversity. Ms. DiBlasi received her B.A. in 2001 from Colgate University and her J.D. in 2004 from Fordham University School of Law.

Barbara Rumora-Scheltema is a partner with NautaDutilh in Amsterdam, where she specializes in corporate and commercial litigation and insolvency law, as well as international arbitration, advis-

ing and litigating for both national and international clients. She is a recognized thought leader in *Who's Who Legal* on Insolvency and Restructuring and one of only four Dutch experts in the *Legal 500's* Hall of Fame for 2023 Restructuring and Insolvency. In addition to her litigation practice, Ms. Rumora-Scheltema is co-dean (president) of the Amsterdam Bar. She has been involved in many high-profile litigation cases, often leading to groundbreaking decisions by the Dutch and European courts. Ms. Rumora-Scheltema is a member of the core team that has represented Yukos and its subsidiaries since 2005, and she has advised and litigated on aspects of Dutch and Dutch Caribbean law in relation to the insolvencies of Slotervaart Hospital, Intertoys, PaperlinX, McGregor, Lehman Brothers, Estro (Small steps) and others. Ms. Rumora-Scheltema was involved in many high-profile cases involving arbitral awards and related litigation in the Netherlands, including SCM/Raga, Yukos Capital/Rosneft, Cukurova/Sonera and Nelux/Nakash. She also worked on several enforcement cases involving state-investor arbitral awards, including Stati/Kazakhstan, and led the teams litigating for, among others, Frener & Reifer, regarding enforcement of international arbitral awards in the Netherlands. Ms. Rumora-Scheltema has frequently acted as an expert on Dutch and Dutch Caribbean law issues for foreign courts, both in common law as well as civil law jurisdictions. She received her law degree from the University of Amsterdam.

Kate Stephenson is a partner in Kirkland & Ellis's European Restructuring Group in London. She has extensive restructuring and insolvency experience, including advising strategic investors, insolvency practitioners, turnaround managers, directors, debtors and creditors in all forms of national and international financial restructurings and insolvencies. Ms. Stephenson leads the European Restructuring Group's technical business-development initiatives and supports the team in problem-solving on their market-leading deals. This includes advising on a variety of restructuring plans, schemes of arrangement, company voluntary arrangements, administrations, enforcements (including by way of appropriation) and cross-border recognition. Ms. Stephenson previously was a consultant with Weil, Gotshal & Manges LLP and an associate at Allen & Overy. She received her M.A. in 2005 from the University of Cambridge and her Legal Practice Course with distinction from Nottingham Law School.

Stephanie Yeo is a partner in the Restructuring & Insolvency and Special Situations Advisory Practices of WongPartnership LLP in Singapore. Her main area of practice is restructuring and insolvency, with a focus on formal and out-of-court cross-border restructurings. Ms. Yeo is admitted to the Singapore Bar. She is a member of INSOL and has been a facilitator for the Insolvency Law Practice Sessions in the Preparatory Course, leading to Part B of the Singapore Bar Examinations since 2015. Ms. Yeo was selected to be part of the 2021 International Insolvency Institute's NextGen Leadership Programme, which recognises the most prominent young lawyers, insolvency professionals and academics in the world. She was seconded to the Restructuring Group in the New York office of Kirkland & Ellis over the course of 2018 and 2019. Stephanie graduated from Singapore Management University, during which time she participated in various international moot competitions, including the International Law Moot Court Competition "Asia Cup" in Japan and the William C. Vis International Commercial Arbitration Moot in Vienna.