

# GLOBAL RESTRUCTURING - PREDICTIONS FOR 2021

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Legal Briefings - By **John Whiteoak and Kevin Pullen**

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Our recent article for Global Restructuring Review sizes up the key drivers in what promises to be an unpredictable year

First published in *Global Restructuring Review*.

To say the least, 2020 was a tumultuous year and its effects will be felt economically and socially for many years to come. Although 2021 promises some improvement, disruption seems inevitable. Given the many unknowns lying ahead, partners [John Whiteoak](#) and [Kevin Pullen](#) at Herbert Smith Freehills have compiled a list of themes for GRR readers to look out for in the UK in the coming year.

## **GOVERNMENT AND REGULATORY ORGANISATIONS GETTING TOUGHER**

In one direction, the UK government has done a lot to ease the burden on businesses and directors through temporary measures like the suspension of wrongful trading provisions - essentially encouraging businesses that otherwise would have obtained insolvency protection to continue to operate.

In the other direction, there has been a notable trend of regulators and the government "baring their teeth" as a consequence of insolvency, often at the behest of media and political pressure looking for someone to "blame". Recent media coverage of the Arcadia collapse provides an example, following which Parliament was told that the Secretary of State for Business, Enterprise and Skills had written to the Insolvency Service to instruct it to consider the conduct of Arcadia's directors.

The consequence of this may be a chilling effect on highly qualified professionals and investors seeking to assist distressed organisations (as directors, advisers, lenders or owners) for fear of political, financial or reputational attack.

It is likely this “blame” approach will escalate with the introduction of more regulatory powers. In particular the new Pension Schemes Act contains sweeping criminal, civil fines and civil liability for directors, related companies and potentially advisers, lenders and other actors in the restructuring or insolvency of companies with pension deficits. The approach of the Pension Regulator with these new powers could be very significant for UK restructuring in 2021.

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If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



**JOHN WHITEOAK**  
PARTNER, LONDON

+44 20 7466 2010  
john.whiteoak@hsf.com



**KEVIN PULLEN**  
PARTNER, LONDON

+44 20 7466 2976  
Kevin.Pullen@hsf.com