

Consultation on a new European approach to business failure and insolvency

I. Background Information

Please indicate your role for the purpose of this consultation -single choice reply-(compulsory)	Business adviser or business support organisation
Have you had practical experience with insolvency proceedings and if so, in what capacity? -single choice reply-(compulsory)	Yes
If SO, -single choice reply-(compulsory)	as a creditor
Please indicate the country where you are located -single choice reply-(compulsory)	Belgium
Please provide your contact information (name, address and email-address) -open reply-(compulsory)	
European Small Business Alliance Clos du Parnasse 3A 1050 Brussels Belgium secretariat@esba-europe.org	

II. Selected areas where the divergence of national law may create problems for the internal market

1. Second chance for entrepreneurs in honest bankruptcies

Q1. Which of the following measures would you consider as the most efficient in order to reinforce a second chance for honest entrepreneurs? -multiple choices reply-(optional)	Eliminate stigma of bankruptcy and reduce discrimination of failed entrepreneurs if any - Frame and apply "fast track" liquidation proceedings for honest bankruptcy - Develop and expand programmes to mentor, train, advise and support second starters
Q2. Do you support the European objective to limit the discharge and debt settlement period to a maximum of three years in order to facilitate second chance? -single choice reply-(optional)	Yes

2. Conditions for opening insolvency proceedings

Q3. In your view, do the differences in national law for the opening of insolvency proceedings (insolvency test and/or timeframe) create problems for businesses operating in the internal market? -single choice reply-(optional)	Yes
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Please specify -open reply-(**optional**)

See ANNEX I

Q4. In your view, does the divergence of national laws on the following issues create	The possibility for creditors to file for insolvency proceedings? - the possibility of specific public entities to file for insolvency
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problems? -multiple choices reply-(optional)	proceedings? - The possibility to open insolvency proceedings against certain entities?
Please specify -open reply-(optional)	
See ANNEX I	
Please specify -open reply-(optional)	
See ANNEX I	
3. National legal frameworks for restructuring plans	
Q5. In your view, is there a need to eliminate all or some of the divergences of national rules regulating restructuring plans? -single choice reply-(optional)	Yes
Please specify -single choice reply-(optional)	The criteria for approving the plan by the supervising court
4. Special arrangements for SMEs	
Q6. Does simplified and cost-efficient insolvency scheme for SMEs exist in your Member State? -single choice reply-(optional)	Yes
If yes, do you have any comment or suggestion on how these schemes can be improved? -open reply-(optional)	
See ANNEX I	
Are you aware of any problems which SMEs as creditors encounter? If yes, please specify. -open reply-(optional)	
See ANNEX I	
Q7. Are the following types of procedures available to SMEs in your Member State? -multiple choices reply-(optional)	Out-of-court settlement and voluntary arrangements - Personal insolvency schemes and civil bankruptcy
Q8. Which of the following aspects should be improved in view of making insolvency proceedings more efficient and effective for SMEs? -multiple choices reply-(optional)	the priority of claims? - the costs of procedures (court fees, insolvency practitioner fees)? - the efficiency and effectiveness of the insolvency practitioner? - the efficiency and effectiveness of the courts and the interactions between courts and the parties? - the efficiency and effectiveness of out-of-court procedures?
Please specify how this aspect should be improved from SME perspective. -open reply-(optional)	
See ANNEX I	
5. Status, power and supervision of liquidators	
Q9. Do you consider that the divergence of national laws with respect to the issues set out below has created problems in cross-border insolvency proceedings? -multiple choices reply-(optional)	the qualifications required of the liquidator? - the procedure, if any, for his licensing? - the eligibility criteria for the appointing as liquidator in a specific case? - the conditions for dismissal of the administrator? - the powers attributed to the liquidator? - the rules concerning the supervision of the liquidator and the disciplinary regime, if any? - the system of remuneration of the liquidator?

Please specify -open reply-(optional)

See ANNEX I

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See ANNEX I

Please specify -open reply-(optional)

See ANNEX I

Please specify -open reply-(optional)

See ANNEX I

6. Directors' duties and liability and professional disqualifications

Q10. In your view, are there problems with the enforcement of liability claims against the directors of insolvent companies within the EU?
-single choice reply-(optional)

Yes

Please specify: -open reply-(optional)

See ANNEX I

Q11. In your view, have the regulatory gaps in the liability regime outlined above led to any problems in practice? -single choice reply-(optional)

Yes

Please specify (regulatory arbitrage, difficulties of compliance with divergent liability rules for managers, ...) and how should these problems best be solved? -open reply-(optional)

See ANNEX I

Q12. In your view, is there a need to take action at EU level with a view to preventing disqualified directors from heading companies in another Member State? -single choice reply-(optional)

Yes

Please specify -single choice reply-(optional)

by ensuring that a disqualification order issued in one Member State is recognised in all other Member States?

7. Avoidance actions

Q13. In your view, has the divergence within the EU of the conditions under which a detrimental act can be avoided created problems in practice? -single choice reply-(optional)

Yes

Do you think that all or some of the conditions relating to avoidance actions, such as applicable time limits, should be harmonised? Please specify -open reply-(optional)

See ANNEX I

III. Other Issues

Q14. In your view, are there any other issues where the divergence of national law creates problems for the internal market?

-open reply-(optional)

See ANNEX I

Do you want to upload a file?

-open reply-(optional)