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10 Most Common Insolvency Questions in Receivables and Payables Finance – A Focus on the United States

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Massimo Capretta
Partner, Chicago and New York
T: +1 312 701 8152 (Chicago)
T: +1 212 5-6 2632 (New York)
E: mcapretta@mayerbrown.com



Bianca D. Soares
Counsel, New York
T: +1 212 506 2754
E: bsoares@mayerbrown.com



Richard Ziegler
Counsel, Chicago
T: +1 312 701 7894
E: rziegler@mayerbrown.com

A close-up, slightly blurred image of several Euro banknotes. The focus is on the portrait of a man, likely a historical figure, and the intricate security patterns of the currency. The colors are muted, with shades of blue, green, and yellow. A vertical orange bar is visible on the far left edge of the image.

Who Are We?

- ***Global Receivables and Supply Chain Finance Team***
 - Over 50 professionals across our platform focused on receivables and supply chain finance
 - Coverage across our platform including the US, the UK, France, Germany, Hong Kong, Singapore, Brazil and Mexico
 - We are a go-to law firm for a number of the world's leading participants in the supply chain finance market.

A close-up, slightly blurred image of several Euro banknotes. The central focus is on the portrait of a man, likely a historical figure, with intricate patterns and colors like blue, green, and pink. The text 'Welcome To Our Webinar Series!' is overlaid in white on the left side of the image.

Welcome To Our Webinar Series!

- 9 Programs From July to November
- Next Program – July 29th - A companion piece to this presentation focused on Europe and Asia
- We will have our normal live programs in New York, London, Singapore and Hong Kong in 2021 – circumstances permitting, early in the year.

The background of the slide features a close-up, slightly blurred image of several Euro banknotes. The notes are in shades of blue, green, and yellow. A prominent yellow vertical bar is on the left side of the image. The text 'Supply Chain and Distribution Offering' is overlaid in white on the top half of the image.

Supply Chain and Distribution Offering

- Mayer Brown is the only law firm with an end-to-end supply chain and distribution offering including:

Finance

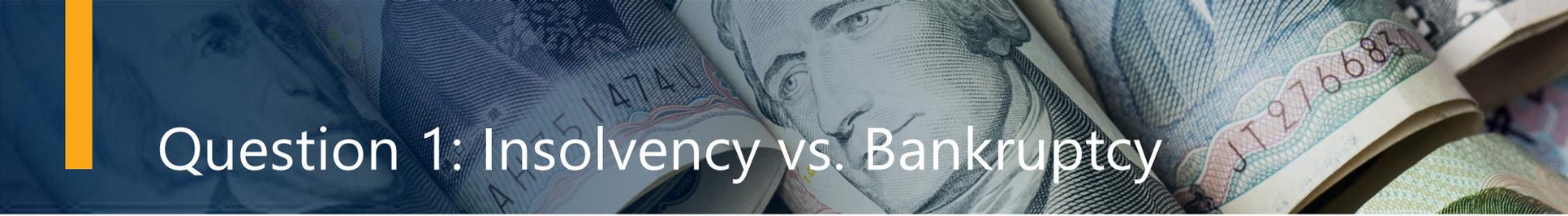
Tax

Customs and Trade

Litigation

Regulation

Technology and IP

The background of the slide features a close-up, slightly blurred image of several US dollar bills. The focus is on the portrait of George Washington on the one-dollar bill, with other bills partially visible behind it. The colors are muted, with a blue and green tint. A vertical orange bar is positioned on the left side of the slide.

Question 1: Insolvency vs. Bankruptcy

- A company needs to be insolvent to file bankruptcy, correct?

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Question 2: Involuntary Bankruptcy

- What about involuntary bankruptcy?

The background of the slide features a close-up, slightly blurred image of several Euro banknotes. The notes are in shades of blue, green, and yellow. A prominent feature is the portrait of a man, likely a historical figure, on one of the notes. The text "Question 3: Automatic Stay" is overlaid in white on the left side of the image.

Question 3: Automatic Stay

- What's the "automatic stay" (and why should I care about it)?

The background of the slide features a close-up, slightly blurred image of several Euro banknotes. The notes are in shades of blue, green, and yellow. A prominent portrait of a man, likely a historical figure, is visible on one of the notes. The text "Question 4: True Sale" is overlaid on the left side of this image in a white, sans-serif font. A vertical orange bar is positioned to the left of the text.

Question 4: True Sale

- Given that I bought my receivables in a “true sale” and own them outright, how does this thing even apply to me? How can I free my money from it?

A close-up, slightly blurred image of several US dollar bills, showing the faces of George Washington and Benjamin Franklin. The bills are fanned out, with some numbers like '14740' and '1976687' visible. A vertical orange bar is on the left side of the image.

Question 5: Enforcement Against Obligor

- The receivables I purchased are still outstanding. Can't I still enforce and collect against the Obligor directly so the proceeds are never sent to the Seller's collection accounts?

A close-up, slightly blurred image of several US dollar bills, showing the portrait of George Washington on a \$100 bill and parts of other bills. The bills are fanned out, creating a sense of depth and texture. The colors are muted, with blues, greens, and greys dominating the palette.

Question 6: Seller Collection Accounts

- We have a lien over the Seller's collection accounts, but they are general accounts that receive a lot of transfers that don't just represent collections on my purchased receivables. Should I be worried?

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Question 7: Critical Vendor Status

- My payables facility is really important to the Obligor. Will the invoices I've financed be given "critical vendor" status? What is that anyway?

The background of the slide features a close-up, slightly blurred image of several Euro banknotes. The notes are in shades of blue, green, and purple. A prominent feature is the portrait of a man, likely a historical figure, on one of the notes. The text 'Question 8: Fraudulent Transfers and Clawback' is overlaid in white, sans-serif font across the top portion of the image. A vertical orange bar is visible on the far left edge of the slide.

Question 8: Fraudulent Transfers and Clawback

- Do I need to worry about payments I received prior to the bankruptcy filing?

The background of the slide features a close-up, slightly blurred image of several Euro banknotes. The notes are in shades of blue, green, and yellow. A prominent portrait of a man, likely a historical figure, is visible on the notes. The text "Question 9: Perfection Issues" is overlaid on the top left of this image in a white, sans-serif font. A vertical orange bar is positioned on the far left edge of the slide.

Question 9: Perfection Issues

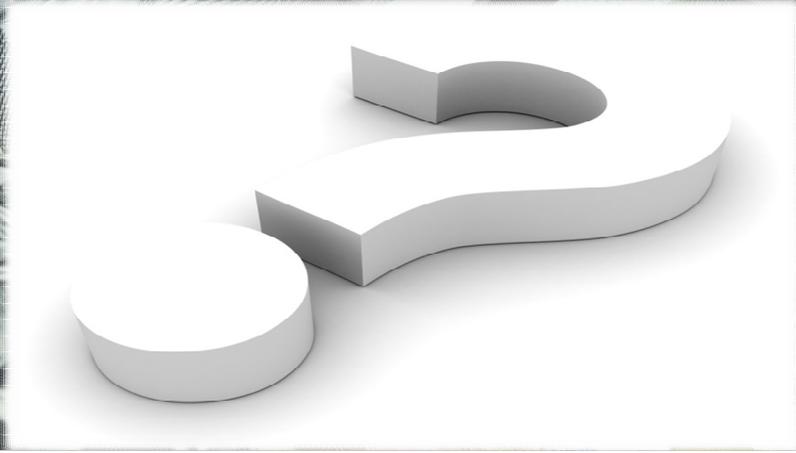
- What if I failed to perfect the transfer of my receivables?

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Question 10: Confirmed Receivables

- Why are you telling me any of this? The Obligor under my payables facility has agreed to pay me directly, unconditionally and irrevocably, so long as I fund any supplier invoices. That's all I need, isn't it?

Questions?





Upcoming Global Receivables and Supply Chain Finance Webinars

- **July 29:** 10 Most Common Insolvency Questions in Receivables and Payables Finance – A Focus on Europe and Asia
- **August 5:** Capital Markets/Alternative Investors; Investing in the Trade Receivable Asset Class
- **August 19:** 5 Most Common Questions About Financing Receivables and Payables Through a Platform
- **September 2:** 5 Most Common Questions About Financing Foreign Receivables; Issues Beyond Simple Perfection, Priority and Enforcement
- **September 16:** Supply Chain Finance Using Drafts and Bills of Exchange
- **October 7:** Working Together for Mutual Benefit: Non-Recourse Receivables Purchase and Trade Receivables Securitization
- **October 21:** Credit Insurance – How Does It Actually Work in Supply Chain Finance?
- **November 4:** The UN Convention on the Assignment of Receivables – What Is It, and How Will It Change Trade Finance?

The background of the top section of the slide features a close-up, slightly blurred image of several Euro banknotes. The focus is on the portrait of a man, likely a historical figure, and the intricate patterns and colors of the currency. The text is overlaid on this image in a clean, white, sans-serif font.

Upcoming Distribution and Supply Chain Webinars

- **August 19:** Contract Risk: Building Resilient Relationships with Suppliers and Distributors
- **September 23:** Geographic Risk: Re-shoring and Diversifying Your Supply Chain
- **October 7:** Supplier Compliance and Reputational Risk

Presenter Bios



Massimo Capretta | Partner, Chicago and New York | mcapretta@mayerbrown.com

Massimo Capretta is a partner in Mayer Brown's Chicago and New York offices and a member of the Banking & Finance practice. Massimo's transactional practice focuses on representing both financial institutions and companies across a broad spectrum of domestic and international financing transactions. He has been involved in transactions spanning a number of key industries including automotive, heavy manufacturing, chemicals, metals and energy. Massimo has particular experience with domestic and cross-border trade receivables securitization, asset-based finance, factoring, supply chain/vendor finance, trade finance and other receivables monetization strategies. He regularly advises clients on the creation and management of bespoke receivables finance transactions.



Bianca D. Soares | Counsel, New York | bsoares@mayerbrown.com

Bianca Dias Soares is a counsel at Mayer Brown's New York office and a member of the Banking & Finance practice. Bianca's transactional practice focuses on representing both financial institutions and companies in domestic and international financing transactions. Bianca has particular experience with domestic and cross-border finance, structured trade and traditional trade finance, trade receivables finance, factoring, supply chain finance, and other receivables monetization strategies.



Richard Ziegler | Counsel, Chicago | rziegler@mayerbrown.com

Richard Ziegler is a counsel in Mayer Brown's Chicago office. He advises financial institutions and other business enterprises in matters involving insolvency, restructuring and bankruptcy. He has represented clients in bankruptcy cases in the automotive, financial, retail, energy, telecommunications, airline and real estate sectors. He consults frequently on structural and bankruptcy issues related to structured finance transactions, factoring arrangements, repurchase agreements, and derivatives transactions.



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