Proskauer

A New Restructuring Playbook:

Why Private Credit Lenders Should Watch England

June 16, 2026

Private credit lenders can no longer assume a U.S distressed borrower with U.S.-governed debt will restructure through Chapter 11. Recent restructurings demonstrate that borrowers can use English restructuring tools to restructure New York law-governed debt, bind dissenting creditors and, in some circumstances, achieve outcomes that may be difficult to replicate in Chapter 11.

For lenders, this development is more than a procedural curiosity. English restructuring processes can reduce the influence of minority creditors, provide borrowers with an alternative to Chapter 11, and potentially alter long-standing assumptions regarding creditor voting rights, holdout strategies, and the treatment of existing equity in the face of the U.S. "absolute priority rule." As English restructurings are increasingly recognized and enforced by U.S. courts through Chapter 15, private credit investors should understand how these tools are increasingly becoming feasible restructuring options.

Understanding English Restructuring Tools: A Primer for U.S. Investors

English law provides two principal in-court restructuring tools: the Scheme of Arrangement ("Scheme") and the Restructuring Plan ("RP").

1. **Scheme**

   For U.S. investors, a Scheme can be viewed as a court-supervised restructuring that sits somewhere between an out-of-court exchange offer and a Chapter 11 plan. If creditors representing at least 75% in value of debt and a majority in number of creditors in a particular class vote in favor of the restructuring the English court may approve the Scheme and it will be binding on all creditors within that class, including dissenting holders. Unlike Chapter 11, however, every affected class must approve a Scheme, and there is no ability to cram down an entire class that votes against the transaction.

2. **RP**

   The RP, introduced in 2020, builds upon the extensive body of law developed

under Schemes while adding a feature familiar to U.S. restructuring practitioners: cramdown. Like a Scheme, a RP requires approval from creditors holding at least 75% in value of claims within a class. Unlike both a Scheme and a Chapter 11 plan, however, there is no requirement that a majority in number of creditors vote in favor. More importantly, an English court may approve a RP even where one or more creditor classes vote to reject the transaction, provided certain requirements are satisfied.

No Numerosity Requirement. The lack of a numerosity requirement is significant. In the U.S., confirmation of a Chapter 11 plan generally requires acceptance by at least two-thirds in amount and more than one-half in number of claims voting in each accepting class. As a result, a RP may provide borrowers with a more effective mechanism for addressing debt held by a dispersed lender or bondholder base, where holders with minimal economic interest could otherwise frustrate a restructuring.

No Absolute Priority Rule. English restructuring tools may also offer greater flexibility in allocating value among stakeholders. While recent English decisions have imposed increasing scrutiny on transactions that preserve value for shareholders where junior creditors have received minimal consideration, there is no statutory absolute priority rule applicable to Schemes or RPs and the English courts have demonstrated a willingness to approve restructuring outcomes that do not track the strict application of the U.S. absolute priority rule. As a result, borrowers and sponsors may view English proceedings as providing greater flexibility than a contested Chapter 11 process in certain circumstances.

Feature	Chapter 11	Scheme	RP
Court-supervised	Yes	Yes	Yes
Bind dissenting creditors	Yes	Yes	Yes
Voting threshold	2/3 amount + >1/2 number	75% value + majority number	75% value
Numerosity requirement	Yes	Yes	No
Cramdown	Yes	No	Yes
All classes must approve	No	Yes	No

Feature	Chapter 11	Scheme	RP
Absolute priority rule	Yes	No	No
Recognition in U.S.	N/A	Chapter 15	Chapter 15

Recent Examples of U.S.-Style Debt Restructured Through English Proceedings

Three recent restructurings—Fossil Group, Operadora de Servicios Mega, and Ambatovy Minerals Société Anonyme—illustrate how borrowers have utilized English restructuring tools to address debt that otherwise might have been restructured through Chapter 11.

1. **Fossil Group: Avoiding the Numerosity Requirement**

Fossil Group restructured approximately $150 million of unsecured notes through a RP after obtaining support from noteholders representing more than 75% in value of the notes. Before launching the RP, Fossil and its supporting creditors changed the governing law of the notes to English law and caused an English subsidiary to join as a guarantor.

The RP allowed Fossil to implement the restructuring without satisfying the majority-in-number voting requirement that would have applied in Chapter 11. That distinction was particularly important given the company's dispersed retail noteholder base. The English court sanctioned the RP, which was subsequently recognized in the United States under Chapter 15, thereby binding dissenting holders. Existing equity interests remained in place throughout the restructuring.

For lenders, Fossil demonstrates how borrowers can reposition debt into an English-law framework and utilize a RP to overcome class voting dynamics that might complicate a Chapter 11 process.

2. **Operadora de Servicios Mega: Restructuring New York Law Debt Outside Chapter 11**

Operadora de Servicios Mega restructured approximately $351 million of New York law-governed notes through a Scheme. To establish the necessary connection to England, the company incorporated an English subsidiary that became an obligor on the debt.

After obtaining the required creditor support, the company successfully implemented the Scheme and bound dissenting noteholders within the affected class. The restructuring was later recognized in the United States under Chapter 15, enabling enforcement against U.S.-based creditors.

The significance of Mega lies less in the treatment of equity and more in the process itself. The case demonstrates that New York law-governed debt can be restructured through an English proceeding without commencing a Chapter 11 case, even where U.S. creditors are involved.

3. **Ambatovy: Testing the Boundaries of Creditor and Equity Rights**

Ambatovy provides perhaps the clearest illustration of why private credit lenders should pay attention to developments in English restructuring law.

In Ambatovy, existing shareholders provided super-senior financing that was treated as debt and formed the consenting class for purposes of plan approval. The debtors then utilized the RP's cross-class cramdown mechanism to impose the restructuring over the objections of other creditor constituencies. The crammed-down creditors received materially impaired recoveries while existing shareholders retained ownership and control of the business.

The result was a transaction in which existing shareholders retained control notwithstanding substantial creditor impairment. Although subsequent developments in English case law may make similar structures more difficult to implement today given substantial scrutiny on the treatment of out-of-the-money creditors, Ambatovy illustrates the flexibility that English courts may afford in allocating value among stakeholders and highlights the importance of closely evaluating proposed class composition and restructuring architecture.

Why Private Credit Lenders Should Care

1. **Diminished Class Blocking Power**

The absence of a majority-in-number voting requirement in a RP reduces the ability of a dispersed creditor group to block a restructuring. A supermajority by value potentially held by a small number of holders (per Fossil) may be able to bind minority lenders more easily than under Chapter 11.

2. **Increased Cramdown Risk**

Unlike a Scheme, a RP permits cross-class cramdown. Borrowers may therefore be able to impose a restructuring on dissenting creditor classes under circumstances where a Chapter 11 confirmation battle would be more complex, expensive, or uncertain.

3. **Potential Pressure on Traditional Absolute Priority Concepts**

Although recent English decisions have narrowed the scope of certain aggressive restructuring strategies, English courts do not apply the U.S. absolute priority rule in the same manner as Chapter 11 courts. In some circumstances, this may create opportunities for sponsors to preserve value notwithstanding significant creditor impairment.

4. **Engineered Jurisdiction and Capital Structures**

Borrowers may be able to create a sufficient English nexus through relatively modest structural changes, such as adding an English obligor or guarantor. Accordingly, the absence of a meaningful operational connection to England should not lead lenders to assume that an English restructuring is unavailable.

5. **Cross-Border Enforcement**

U.S. courts have repeatedly recognized English restructurings through Chapter 15, increasing the likelihood that U.S.-based lenders will be bound by restructuring outcomes developed in a foreign forum.

Conclusion

English restructuring tools are increasingly being used to restructure debt of US debtors that historically may have been addressed through Chapter 11. While Schemes and RP's may offer borrowers a potentially faster and more flexible path to restructuring, they also present meaningful risks for private credit lenders, including reduced blocking rights, increased cramdown exposure, and altered stakeholder-value dynamics. As sponsors and borrowers continue to explore these alternatives, lenders should carefully evaluate both documentation and restructuring strategy with the possibility of an English proceeding in mind.

Related Professionals

- **David M. Hillman**
  Partner
- **Clare Cottle**
  Partner
- **Maximilian A. Greenberg**
  Associate