

TMA Europe Annual Conference, Stockholm, 12 June 2015

The annual conference of TMA Europe attracted around 150 participants this year and perhaps not surprising looking out at the spectacular harbour view from the Grand Hotel in Stockholm on a sunny summer's day.

But it was not just the Swedish capital's beautiful architecture that was the draw. As conference co-chair Fredrik Vernerström of PricewaterhouseCoopers (PwC) told the opening session:

"I believe we all in this room share a passion for value creation; we all want to avoid value destruction."

"We also all have hands-on experience of turnaround," Vernerström added.

As always, TMA's global leadership had crossed the pond in force to attend the annual European event, and TMA Global chairperson Judge Kevin Carey welcomed the first keynote speaker; Alexander Graf Matuschka-Greifflau, CTO of Nokia.

The German executive's talk was titled 'the turnaround of an industry'.

Conference co-chairman Christian Jakovlew noted that people in his home country of Finland were very proud of Nokia. Unfortunately the phone maker has had its difficulties in recent years, and Matuschka-Greifflau said it had even faced bankruptcy at one point.

He added his position was fundamental to the success of his role; as CRO, he concentrated completely on turning the business around, while the existing management dealt with day-to-day operations; he could challenge anyone in the company; on the other hand, they could not challenge him about the running of the business.

For this reason, said the Nokia CRO, COO's never made good turnaround managers. They were too distracted by day-to-day management to give their full energies to longer-term restructuring.

The area of 143 football fields

Matuschka-Greifflau had some startling statistics about the Nokia overhaul; his turnaround team closed excess office space equivalent to 143 football fields. This saved 180 million euro of costs alone.

Nokia is now finally emerging from the crisis, he said, and will be investing in R&D and personnel. Turnaround is switching to rebuild.

With this in mind, Ian Gray of Baronsmead Consulting in the UK chaired the first panel, titled 'When does the turnaround stop and the rebuild start?'

Maciej Woznica, a senior portfolio manager with Sparinvest in Denmark, replied simply: "From our point of view, when we get paid."

Gray had an alternative way of knowing when you've completed a turnaround: "It's when you spend less time with your creditors and more time with your customers."

The 'I' word

Turnaround managers always have to operate against the background of insolvency legislation. So a turnaround conference has to consider the 'I' word at some point.

The European Insolvency Regulation ushered in a period of 'forum shopping' in the early 'noughties, with large German corporates, for instance, migrating their

centre of main interest (COMI) to England to take advantage of its more user-friendly insolvency regime.

Times have changed. Over the last ten years or so, many European countries reacted by overhauling their own insolvency laws, introducing out of court company rescue schemes, for example.

The second keynote speaker, Santiago Senent, an insolvency judge from Spain, introduced the conference to recent law changes in his country that include out of court restructurings, debtor in possession financing and the ability to cram down creditors.

All of this may be old hat in the US; Chapter 11 was introduced way back in 1978. But it is a huge cultural change for Spain, where over 90 per cent of companies entering insolvency still end up in liquidation.

This move from a bank-led liquidation culture to an alternative-finance-led turnaround one was discussed in detail by the second panel, chaired by John Willcock, Editor, Global Turnaround.

Alan Tilley of BM&T delivered a provocative view – that the UK has lost its traditional lead in ‘user friendly’ restructuring laws, and that countries like Spain, Germany, the Netherlands and France have got better rescue cultures these days.

As a result, not only is forum-shopping much reduced; TMA members around Europe are finding a readier market for their services. Distressed investors are finding it easier to engage.

Frank Tschentscher of Schultze & Braun, a restructuring adviser from Hamburg, spoke passionately about a culture shift in Germany sparked by the introduction of its landmark ‘ESUG’ legislation three years ago. Although ESUG is an insolvency law, it radically shifts the German culture from bank-led liquidation to investor-led restructuring.

It is this change in cultural attitudes that is as important as changes in the letter of the law, said Tschentscher.

Emanuella Agostinelli of Curtis Mallet-Prevost in Italy described similar legal reforms in her country. Debtors and creditors can now select from a menu of four procedures, ranging from bankruptcy to out of court restructurings.

Andreas Enger of Deloitte in Norway noted his country is just launching a comprehensive overhaul of its insolvency laws, which still anguish in the bank-led liquidation model. Finally, Steven Moll of PwC in the host country of Sweden brought a more specifically turnaround perspective, reiterating the panel’s view that Europe is well on its way to a more US-style company rescue market.

Forget insolvency reform; Now it’s employment law.

Nicholas Theys of Dentons in France made a very good point from the audience; as all these Civil Law jurisdictions around Europe have modified their insolvency laws to equal, and often surpass, that of the UK, the argument has changed.

The usefulness of a company rescue regime is no longer dependent on whether it is Common or Civil Law, or even what kind of insolvency laws a country has. More important now are things like the particular jurisdiction’s employment law, or directors’ liability law.

The afternoon session got off with a bang, with a keynote speech on fraud. The director of Deutsche Bank’s Anti Financial Crime unit, Eleni Koulouriotti, talked about fostering a compliance culture. In a world of FIFA, OW Bunker and

Pescanova, fraud has never been higher on the agenda, and is an increasingly common cause of companies falling into distress.

Then James Yu of EQT in Sweden spoke about preparing for and managing a turnaround from the perspective of a non-distressed investor.

Since the global financial crisis broke in 2007-8, thousands of distressed businesses across Europe have been able to 'extend and pretend' by tapping the US high yield bond markets for easy refinancing.

A panel session chaired by Beth Topolovsky of Stinson Partners in Sweden debated whether this merry-go-round could continue spinning, or whether these distressed businesses really required an operational turnaround, to tackle their underlying issues.

Lukas Fecker of EY brought his perspective as a restructuring adviser to banks and the buyers of their debts; Teresa Kohl of SSG Capital Advisors brought a US perspective; high yield debt have to be restructured using New York law, after all.

The consensus from the rest of the panel, including Thomas Welte of Autaco in Germany, Jimmy Clarini of Capital Partners in Italy and Nicholas Theys of Dentons in France was that the high-yield debt carousel will continue spinning for a few more years yet. An interest rate rise will probably be needed to bring it to a halt.

What better way to conclude the conference than to extend the discussion to Eastern Europe – 'from the Baltics to the Balkans.'

Hugh Larratt-Smith of Trimingham in the US was joined by Ivo Sotek, an insolvency administrator with Ostruznicka in the Czech Republic, as well as Petr Smutny of PwC in the Czech Republic. The EBRD has been central to building a rescue culture in Eastern Europe, and head of workout Kamen Zahariev was able to give a truly continental perspective, while Gordon Johnson of EMA Global also has experience of working for the World Bank.

The conference ended with an update on one of TMA's most exciting innovations, the EACTP qualification, which provides turnaround professionals with a unique pan-European 'kitemark' of quality.

Stockholm was scenic enough. The good news for TMA Europe's members is that next year's annual conference is in Rome.

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