



on the wall ...

Fly

# The Tsipras Option

RGBStock



**F**LY ONCE ACTED for a debtor whose manoeuvres to avoid paying his debts had the presiding judge rather ominously open his remarks on the day with the observation that there came a time in the life of every debtor when he had to pay. Fly thinks such axioms may require rethinking. Judging by the law reports, it seems that what the youngsters would call a growth app in Fly's world is the device of business rescue. Everyone is doing it, and so many new things are being learnt about it by the day. Fly was wondering whether this could be turned into what the youngsters would call a killer app. These require creativity. There has recently been much creativity in the cradle of democracy when it comes to dealing with financial distress. Where better to borrow from than the Mother of all Alma Maters? If it works for sovereign states, why not for companies? It's called the Tsipras Option.

To employ this Option, you must make sure your company is really, really, really in financial distress. The Tsipras Option is not designed for situations

where there is any real danger of recovery. It goes something like this. First, borrow at least as much as you already owe. A good rule of thumb is to see if the zeros can fit on the page. If they can, you have not borrowed enough. Second, make various solemn undertakings about what the company will do to repay the debt. Third, breach them all. Fourth, replace the Board with a new Board voted in to stop all this Mr Nice Guy stuff with the banks. Fifth, ask the banks for more money. Sixth, if the banks say you must sell all your grandmothers into slavery to get more money, tell them you can't do that until the shareholders have voted for it. Sixth, take it to the shareholders – do they want to sell their grandmothers? Urge them to say no. Stick it to the banks. Seventh, celebrate when the shareholders say no, and insult the banks. Remind them of how badly they treated your grandmothers. Eighth, ask the banks for more money. Ninth, when the banks say this time you must sell your grandmothers and your firstborn, agree wholeheartedly, without asking the shareholders again. Tenth, tell the shareholders they don't

really like their grandmothers or their firstborn anyway, and to stop throwing bricks through the windows. Eleventh, when you get your further money, tell the banks you can't find the grandmothers or firstborn anywhere.

Of course, the Tsipras Option requires a track record to establish its practical soundness. Many things are beautiful in theory but somehow struggle to work in practice. One serious potential weakness in the transplant potential is that the Option requires banks that understand the wisdom of augmenting debt beyond all redemption with further debt, something our banks with their outdated notions of avoiding "throwing good money after bad" need to be educated about. After all, was it not Keynes that said you must spend your way out of distress? There is also a need for an analytically rigorous overriding economic theorem capable of being explained in simple words, so that common shareholders can be made to understand that what appears at first blush to be a colossal fraud being perpetrated upon them is in fact corporate democracy at its finest.

This is important, as you need to appear to be willing to sacrifice their grandmothers and firstborn, and they may be nervous about that and fail to understand that you will never go that far, no matter what you tell the banks. A critical step in the process, seeking shareholder approval and then acting to the contrary, is easily misunderstood as being unnecessary and even unconscionable, and it is often forgotten how important a cog this is in the wheel of shifting the paradigm required to loosen outmoded attachments to pounds of flesh and pipers that need paying in due course.

Fly can envisage conferences and training sessions for our judges and our young ones, to master the intricacies of the Tsipras Option, given that so much of what is central to this Option may appear counter-intuitive at first. Academics will naturally play a vital part in this process. It will also be important to have practitioners and judges with a capacity for lateral thinking. None of this time in the life of every debtor stuff. **A**



Answers  
Legal Crossword  
Number 26

- Across** (starting from top) (2 words) CY PRES  
1. PRISONER  
2. PRISONER  
3. REVOLUTION  
4. RESTRAINT  
5. CARTOON
- Down** (starting from left)  
1. PRETRIAL  
2. DOOR  
3. ABSOLUTION  
4. CONSTRAINT  
5. PERSONNEL