



# Chasing the Assets after Insolvency Part 3.1. How to Better Safeguard Creditors' Interest when the Debtor is Insolvent: Bankruptcy

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Where's the Money?

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## A receiver's TRUE story...

- *The receiver of an insolvent French company finds out that the company has funds in the Portofino branch of an Italian first-level bank...*
- *After contacting the bank, the receiver discovers that the funds had been deposited to cover in rem guarantees offered by the debtor.*
- *When the receiver requests the Italian bank to transfer such amounts to France, the deposit has been liquidated by the creditors. The money is gone...*

# All debtor's assets are subject to the insolvency proceeding

Located either  
nationally...

Or internationally...



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# International chasing of debtor's assets (*lex concursus*)

- EU
  - Immediate Recognition (R. 1346/2000)
  - Powers of the Receiver
- Elsewhere:
  - Exequatur

# All Assets? NO!

- Main proceeding (COMI) // Secondary proceedings
- Other exceptions according to *lex concursus*:
  - Rights *in rem*
  - Immoveable property
  - Protection of third party purchases
  - Detrimental acts
  - Etc.

# When all else fails...

Director's liability



# Thank you

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