

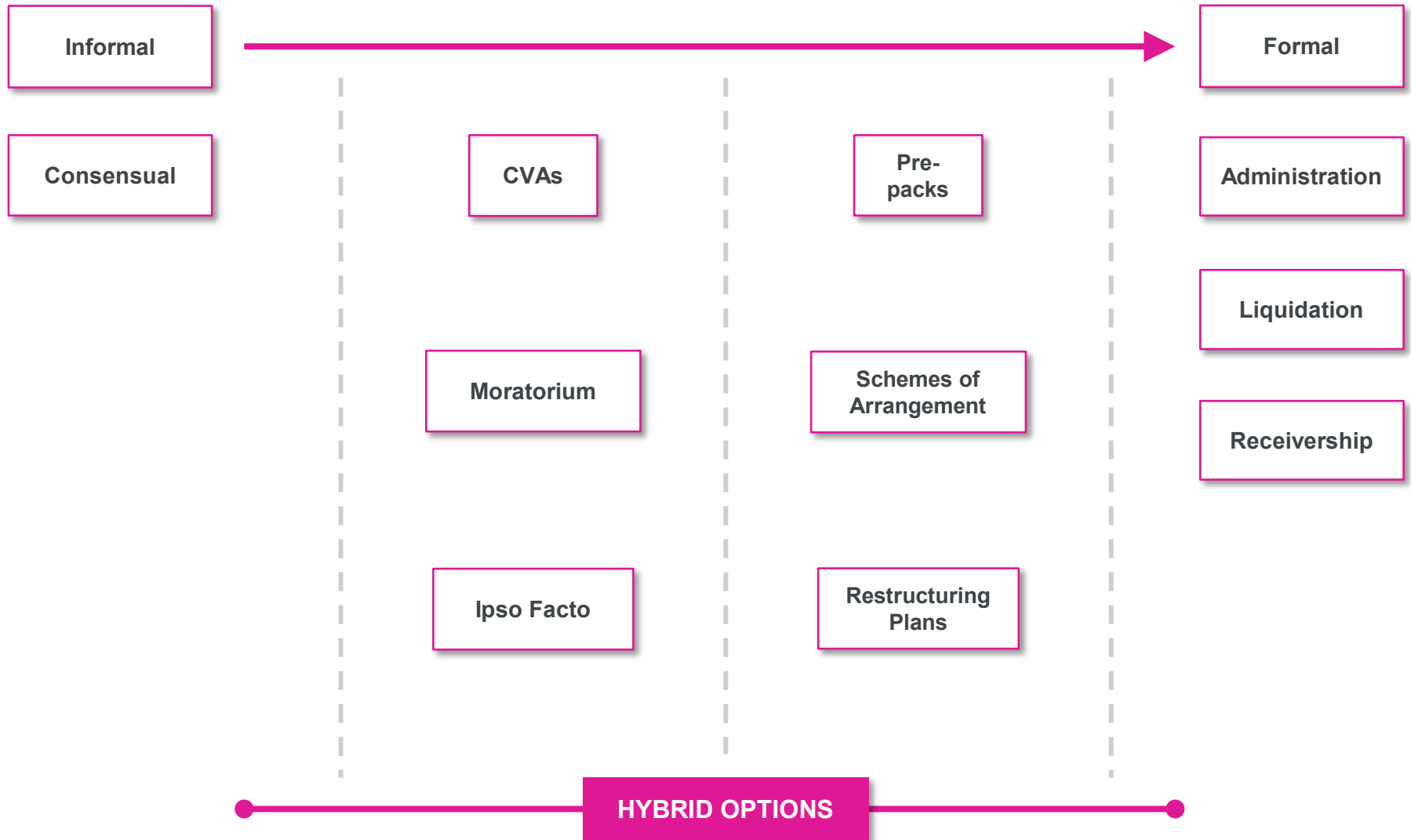
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# UK Out of Court Restructuring IBA Madrid

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22 May 2023

# Restructuring Toolkit



## Pre Corporate Insolvency and Governance Act 2020 (CIGA)

### CVAs

- compromise or arrangement of debts / affairs
- proposal issued by directors supported by nominee report
- requires 75% (by value) of creditors (no more than 50% of opposing unconnected creditors)
- can't bind secured or preferential creditors without consent
- can be challenged for unfair prejudice / material irregularity
- filed in court but otherwise no sanction process

### Schemes

- compromise or arrangement with members / creditors
- requires majority (in number) and 75% (by value) of each class
- can bind secure creditors
- requires separate court sanction
- no cross-class cramdown

# Following CIGA

## Restructuring Moratorium

- standalone or used with other processes
- court filing prevents creditor action
- payment holiday for certain pre-moratorium debts (excludes debts under financial contracts)
- lasts 20 business days (can be extended by further 20 days)
- monitor appointed
- must be likely to result in a rescue of the company (and ability to pay moratorium debts as they fall due)

## Restructuring Plans

- based on Schemes of Arrangement
- includes a cross-class cramdown
- debtor must be encountering, or likely to encounter, financial difficulties affecting going concern status
- cramdown subject to conditions:
  - no worse off than in the relevant alternative
  - must be accepted by one class that would receive payment / have an economic interest in the relevant alternative
  - court sanctioned

# Statistics



## Insolvency Statistics for England and Wales (published 16 May 2023)

- The number of company insolvencies in April 2023 was 15% lower than the number in April 2022
- Of the 1,685 registered company insolvencies in April 2023:

### Administrations / Liquidations

There were:

- 1,368 CVLs (23% lower than in April 2022)
- 183 compulsory liquidations (twice the number in April 2022);
- 122 administrations (8% higher than April 2022);

### CVAs

There were:

- 12 CVAs (20% higher than April 2022);

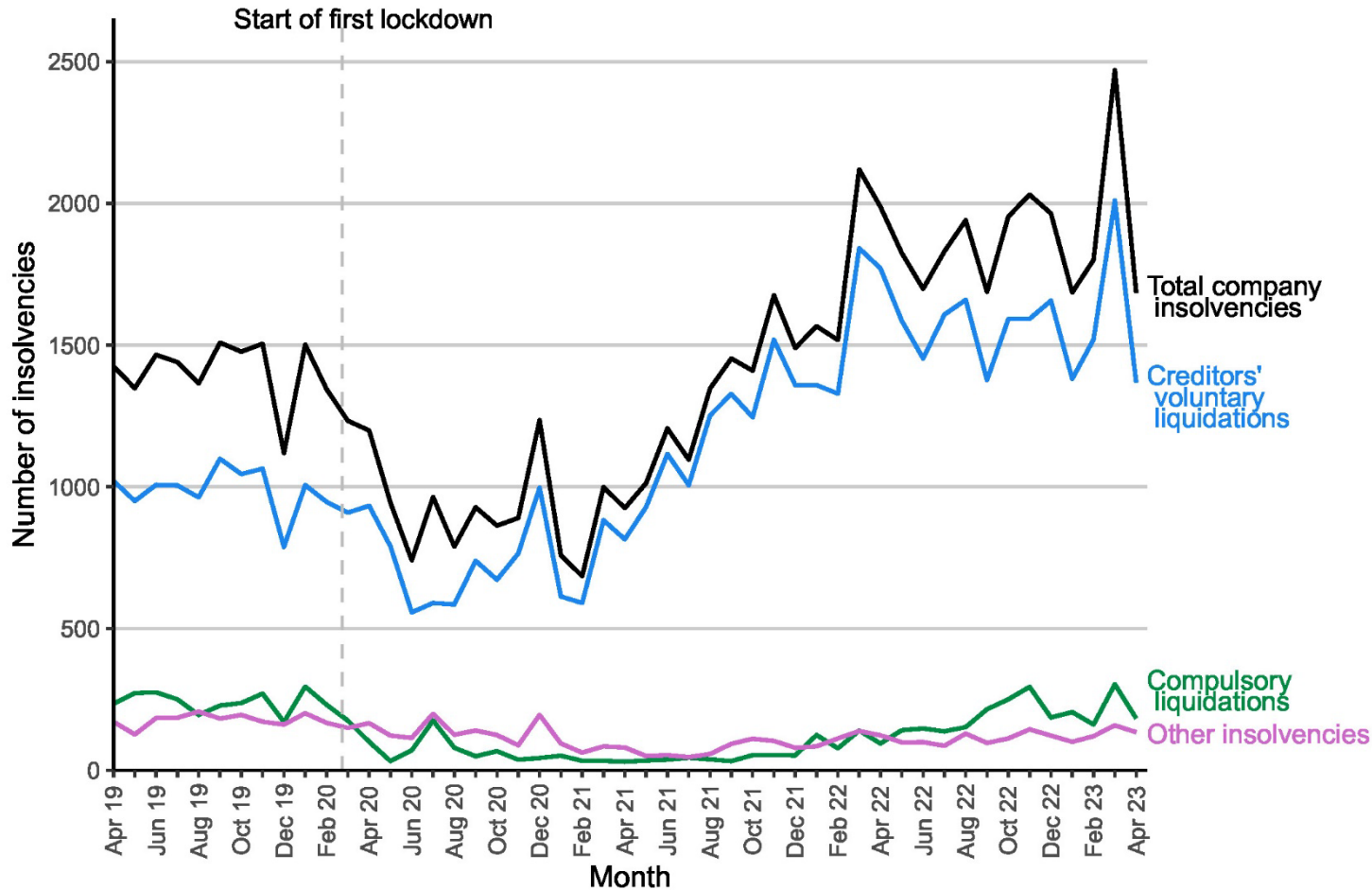
### Moratorium and RPs

Between 26 June 2020 and 30 April 2023 there were:

- 43 moratoriums were obtained; and
- 21 companies had a restructuring plan registered at Companies House.

# Last 4 Years

Registered corporate insolvencies in England and Wales, April 2019 to April 2023:



# Enforcement – Cross Border

## Impact of Exit from EU on Schemes and RPs

### Pre Brexit (no RPs)

- Judgments Regulation (Art 8, Art 27)
- Rome I
- Private International Law
- Model Law

### Post Brexit and CIGA

- “*Insolvency proceedings*” re *Gategroup*
- Schemes:
  - Private International Law
  - Hague?/Rome I
  - Model law
  - Parallel Proceedings?
- Restructuring Plans:
  - Private International Law
  - Rome I
  - Model law
  - Parallel Proceedings?



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