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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL harmonising certain aspects of insolvency law
– four-column table

The 3rd and 4th interinstitutional technical meetings with the European Parliament on the Insolvency Directive took place on 24 and 25 September 2025. During these meetings the co-legislators began to discuss Title IV of the Directive (lines 218 – 249h). While most lines discussed remained for the moment open, the co-legislators have identified a few possible ways forward on a number of lines. Delegations will find below a few questions to direct discussions on Title IV as well as an additional question on Title II in view of the JHA Counsellors meeting on 30th September 2025.

Line 140 and following lines:

Question to Member States: Can you accept deleting “generally”? EP argues it is not needed as “unable to pay” is determined in accordance with national law.

Line 240:

Question to Member States: Would you be able to accept a provision stating that the “monitor shall maintain the confidentiality of all information obtained in connection with the preparation phase”, provided it is made clear in the recitals that this confidentiality rule only applies to the monitor and does not oblige MS to make the preparation phase in its entirety confidential.

Line 249:

Question to Member States: Can you accept this as a “shall”- provision? (with the remaining wording as proposed by Council). EP argues that in any the decision whether to grant a stay is taken on a case-by-case basis.

Line 249 b:

Question to Member States: Could you accept this as a “shall”- provision? Possibly with the explicit addition that this is without prejudice to Art. 22a(5). EP argues that in any event the decision to grant a stay is taken on a case-by-case basis.
