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The European High Yield Association Submits Recommendations on Insolvency Law Reform to the UK Treasury

LONDON – 25 April 2007 - The European High Yield Association (EHYA) today announced that it has submitted a paper to the UK Treasury that reviews the current restructuring climate in the UK and suggests three key areas to reform insolvency legislation to improve the efficiency and fairness of corporate restructurings.

The recommendations were made by the European Insolvency Reform Working Group (EIRWG), a specifically created group within the EHYA, consisting of banks, investors and law firms involved in corporate restructurings. The EIRWG is co-chaired by Andrew Wilkinson and Christopher Hall, partners at Cadwalader, Wickersham & Taft LLP and Latham & Watkins LLP, respectively. The document cites a number of high-profile restructurings that have occurred in the UK and Europe in recent years including those of **British Energy, Eurotunnel, Marconi, Jarvis and Polestar**, which the EIRWG believe could have benefitted from these reforms.

The EHYA submission recommends a limited addendum to the Insolvency Act of 1986, addressing three principal issues:

- An all-encompassing stay on actions should be available to prevent value destruction as this is currently seen as an inevitable consequence of filing for insolvency in the UK. In other jurisdictions, notably the US and France, contractual termination provisions are not enforceable. The current stay deployed by English law does not go far enough in protecting failing businesses and allows customers and suppliers to

terminate contractual relations just when their continued commitment is most crucial to the rescue.

- A framework should be created for fast judicial resolution of valuation disputes in restructurings, short of administration proceedings. This will enable practise and precedent to develop in restructuring valuations, thus providing stakeholders with relative certainty of outcome, whilst avoiding the value loss that arises through administration.
- Creditors or shareholders with no economic interest in the revalued enterprise should not be able to block restructurings or force full insolvency proceedings. A mechanism is needed to deal fully with ‘out of the money’ claims in restructurings.

Gilbey Strub, Executive Director the EHYA said: “Now is the time to address insolvency reform so that the financial markets will be in a better position to bear the next cycle of corporate restructurings. This next round of corporate rescues is going to be vastly more complex given the explosive growth in leveraged lending in Europe since 2001 and in the sheer number, variation and complexity of debt instruments that have emerged since then.”

The EHYA also strongly emphasise that there should not be any lessening of protections for employees or pensioners within the reform of the restructuring process or changes to legislation and also stress that their proposal is designed to streamline claims of financial stakeholders only and do not apply to ‘trade’ creditors, whose claims arise out of the day-to-day operation of the business.

A full copy of the letter submitted to the UK Treasury is available on the EHYA website at:

www.ehya.com

Notes to Editors

The **European High Yield Association** is a trade association representing participants in the European high yield market. Membership is open to banks, investors, issuers, financial sponsors, lawyers, accountants, research analysts, traders and rating agencies. The EHYA is an independent, self-funded forum of SIFMA (The Securities Industry and Financial Markets Association). For more information, visit www.ehya.com.