Focus on the latest reforms:

- **Creation of specialized commercial courts:**

The Macron law of August 6th 2015, named after the last Minister of the Economy, anticipated the establishment of specialized commercial courts which will process the most complex insolvency proceedings. The choice of specialized commercial court is justified by the complexity and urgency of many matters and the need for a short response time. These specialized commercial courts will have sole jurisdiction for the relevant geographical area for judicial safeguard, reorganization and liquidation proceedings concerning certain companies (criteria for such treatment include, companies with at least 250 employees and total turnover of at least €20m, or firms subject to insolvency proceedings which require application of principles of international or EU law).

- **Cramming down of Shareholders in French Reorganization Proceedings**

The Macron Law gives French courts the power (not the obligation) to dilute or compel divestiture of shareholder interests. These rules are complicated and contain stringent conditions, some of which have not yet been interpreted and applied by the courts.

Pursuant to new Article L.631-19-2 of the French Commercial Code, if a majority shareholder or a shareholder holding a blocking minority position refuses to support or collaborate on a proposed rehabilitation plan in a judicial rehabilitation proceeding, the shareholder's interest may be diluted or the shareholder may be forced to sell its shares to the benefit of a third party who committed to implement the rehabilitation plan.

This process applies only in cases where:

- the debtor has more than 150 employees (or the debtor controls one or more companies having more than 150 employees in aggregate); and
- serious disruption to the national or regional economy and regional employment would be caused if the debtor ceased operating; and
- after considering the feasibility of selling all or part of the debtor's assets, the court concludes that dilution or divestiture of shareholder interests is the only solution to avoid such disruption and enable the debtor to continue operating.

The court rules upon request of the public prosecutor or the receiver, and after a minimum period of 3 months as of the opening of the judicial rehabilitation proceeding.

This shareholder dilution/divestiture process has two components:

- Forced dilution of opposing shareholder's interest: the opposing shareholder's interest can be diluted following a capital increase (by means of an injection of new capital or a debt-for-equity swap) approved at a shareholders meeting called by a court-appointed agent (*mandataire*), who will exercise the voting rights of the opposing shareholder. Such increase of capital may be approved up to the amount provided for in the plan.
- Forced sale of shares: the opposing shareholder(s) can be compelled to sell its shares to a new shareholder who undertakes to comply with the proposed restructuring plan. Non-dissenting shareholders will have the right, but not the obligation, to sell their shares to the new shareholder.

In the case of a forced sale of shares, whether or not accompanied by a voluntary sale of non-dissenting shareholder interests, if the selling shareholders and the entity acquiring the shares disagree as to the value of the shares, an expert will be appointed by the court, upon the request of receiver or the public prosecutor, to provide a valuation. For listed companies, the court shall first consult the financial market authority (AMF) before ruling the case.

More recently, the 21st century's justice bill provides that in case the shareholders fail to restore the level of shareholders' equity (*capitaux propres*), the receiver may request to the court the appointment of a court appointed agent (*mandataire*) in charge of convening the general meeting and voting on behalf of the dissenting shareholders the restoration of shareholder's equity, up to the amount proposed by the receiver.

- **Creation of the mandatory co-mandate:**

Whether the debtor has at least €20 million in turnover and 3 branches located in another territorial jurisdictional than its headquarter, or belongs to a group in which at least 2 companies are subject to an insolvency procedure, the court must appoint an additional receiver and an additional representative of creditors.

- **The 21st century's justice bill of November 18th 2016:**

1. In case of the opening of a *mandat ad hoc* or conciliation proceedings, the debtor does not need to inform the employees' representatives according to the article L.611-3 of the French Commercial Code.

2. This law clarifies the scope of the privilege of conciliation (also called the new money privilege) in case of subsequent insolvency proceeding. Under the article L.623-30-2 of the French Commercial Code, claims benefiting from the privilege of conciliation cannot be subject to write-offs or extension of maturity without the agreement of the creditors benefiting from the guarantee (even if the plan is being implemented via a creditors committees process within a SFA, Safeguard or rehabilitation proceedings).