**Distributions to shareholders and the proposed EU rules on avoidance actions in bankruptcy**

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Direct and indirect (profit) distributions to shareholders (like share buybacks and financial assistance transactions) do get large attention within traditional corporate law and within legal research in that respect. On the contrary, although it is clear that such distributions to shareholders are highly detrimental to creditors and directly interfere with the priority ranking between shareholders and creditors, only modest attention is being paid to this phenomenon from the perspective of insolvency law. This is particularly the fact in most continental European countries; the uncertainty that exists around the topic within Belgian law, serves as the starting point for this analysis.

The basic question is whether distributions to shareholders, at first sight lawfully made in a pre-bankruptcy setting, can be questioned after the company has been declared bankrupt based on the rules on transaction avoidance (claw-back rules). The answer to this question proves to be unclear according to the laws of many jurisdictions.

Now that the European Commission published its proposal for a directive harmonising certain aspects of insolvency law (COM/2022/702), the overall goal of this paper is to assess whether the proposed European rules on avoidance actions, would and should encompass distributions made to shareholders before bankruptcy.

The answer to this question needs an analysis on two levels. First, the question must be addressed from a traditional legal perspective, taking into account the proposed rules of the directive and the law as it currently exists in certain member states. On a second level, the issue must be analysed from a policy perspective, taking into account the potential (economic) effects of making lawfully made distributions subject to transaction avoidance rules.