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TITLE:
**THE POST-1986 UK INSOLVENCY SYSTEM: A
STUDY OF MODE OF RESOLUTION AND OF
COMPANY OUTCOME.**

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PhD THESIS

**CASS BUSINESS SCHOOL, CITY UNIVERSITY,
LONDON**

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ABSTRACT

This thesis empirically investigates the United Kingdom (UK) insolvency code by focusing on the formal procedures available to distressed firms in the UK. The UK insolvency code is characterised as a creditor-oriented system that enforces a binding agreement between the company and the creditors with a view to maximising payouts to the creditors. However, the government has introduced two major legislative changes – the Insolvency Act 1986 and the Enterprise Act 2002 – to move the UK insolvency code away from its creditor-orientation and towards a system that will increase the chances of distressed, but viable, firms in the UK to reorganise.

The introduction of the Insolvency Act 1986 paved the way for distressed companies in the UK to enter into a formal procedure (administration) specifically introduced as a means of encouraging a culture of reorganisation for distressed firms in the UK. This thesis investigates the functioning of the UK code, by focusing on the two main formal procedures available to distressed firms (administration and administrative receivership) after the introduction of the 1986 Act. The introduction of the Enterprise Act 2002 resulted to the abolition of the administrative receivership procedure while maintaining the administration procedure as the key formal rescue procedure in the UK insolvency code. Hence, conducting research in the UK formal insolvency procedure is important as it provides empirical evidence on the administration procedure, which is now the main rescue vehicle under the Enterprise Act 2002. The thesis focuses on the post-1986 regime in the UK. It consists of 8 chapters including 3 empirical chapters.

Chapter 5 examines a large sample of UK firms that initiated administration or administrative receivership procedures between 1996 and 2001. The aim is to investigate the choice of the resolution form between administration and administrative receivership. The main research question is to investigate whether the newly introduced administration procedure catered for firms with a different set of financial and other characteristics to those that entered administrative receivership. The findings show that there are some distinguishing characteristics between firms entering administration and those entering administrative receivership, implying that administrative receivership was not necessarily the most appropriate insolvency procedure for all distressed firms.

Chapter 6 examines a sample of UK firms that entered administration between 1996 and 2001. The aim of this chapter is to investigate the differences between firms that reorganised in administration versus those that liquidate. The key issue here is whether administration procedure can differentiate between firms potentially likely to survive and those likely to fail. The findings show that there are significant differences between firms that reorganise and those that fail in administration, suggesting that the administration procedure is able to discriminate between viable and non-viable firms.

Chapter 7 examines the subsequent performance of UK firms that reorganised in administration between 1996 and 2001 relative to a matched sample firms from the same industry and of relatively the same size. The aim was to assess the subsequent performance of companies that reorganise in administration using several key ratios, covering the period from two years prior to failure until three years afterwards. The results show significant improvements in the financial performance of reorganised firms, relative to a matched sample firms, during the period after entering administration.

In summary, these results show the importance of introducing the administration procedure in the Insolvency Act 1986. Prior to this date, there was the possibility that some of those firms that reorganised in administration post-1986 might have been liquidated as there was no formal procedure aiming to reorganise distressed firms at that time. The findings clearly show the potential of the administration procedure in attracting distressed firms capable of reorganising. That procedure has now become the foundation upon which the UK insolvency code is built as indicated by the Enterprise Act 2002. However, having said that, the 1986 system also opened the way for severely distressed companies that should have been liquidated speedily in administrative receivership to attempt reorganisation in administration, thus wasting those firms' already severely depleted resources further. In my opinion, the Enterprise Act 2002 should safeguard against this by putting in place procedures to prevent economically distressed companies from attempting to reorganise in administration.

