

# EAPO

European Account Preservation Order

# What is EAPO?

- EAPO is a Commission Regulation which allows a creditor to procure an Order (EAPO) to freeze the bank accounts a debtor has in another EU State without notice to the debtor.
- The Regulation governs the rules relating to:
  - A) Conditions and procedures for issuing EAPO
  - B) Disclosures relating to bank accounts
  - C) Enforcement
  - D) Remedies for the debtor

# Timeline:

- 2006 Research commenced leading to
- 2011 Commission proposed
- 2014 April – proposal passed by European Parliament
- 2014 May – adopted by Council of Ministers
- 2014 June – became LAW
- 2015 before June all operational bodies are in place e.g. Competent authority established in each country specifically to administer EAPO. It's function to include the ability to identify the bank account/s of a debtor.

# Timeline continued

- 2016      June – all institutions capable of operation
- 2017      January – bank disclosure mechanism in place
- 2017      July – Regulation fully operational

# Timeline for EAPO application

- Following an application, an Order must issue within 14 days
- The Order is served directly on the Competent Authority in the State where the debtor resides
- The Competent Authority must serve the Order on the debtor's bank within 3 days
- Once the Order is served, the debtor's account is frozen immediately and the debtor is informed of the action within 24 hours

# Timeline (continued)

- The debtor's bank can only freeze an amount sufficient to cover the debt set out in the application
- The debtor's bank and the Competent Authority are entitled to recover their costs from the debtor

# Debtor's remedies

- A debtor is entitled to seek a review of the application within 45 days (application made to the issuing Court by way of Form Annex IV)
- On receipt of an application for review, the Court must review the application within 14 days
- The debtor is entitled to compensation if the claim of the creditor is not proven
- N.B. EAPO is REVOCABLE if the claimant does not commence full legal proceedings within 14 days of the date of the issue of the EAPO – EAPO is ONLY a freezing Order and MUST be followed up by appropriate legal proceedings

# Regulations and Directives

- A Regulation is a very strong form of EU law which overrides national law
- A Directive is binding on a Member State as to the legal result to be achieved using national legislation
- Note: this Regulation is not applicable in UK or Denmark. Both countries participated in the discussions and submissions prior to the passing of this legislation. The UK has indicated, to date, that it will probably adopt the legislation pending assessment of the performance of the said legislation.