Are LMEs possible in France?
Key takeaways from Altice France's financial restructuring

Altice France did not know LMEs were impossible, so they executed the largest one in Europe.

In recent years, liability management exercises (LMEs) have become an established feature of US debt markets, allowing distressed borrowers to restructure obligations outside of formal bankruptcy proceedings.

These techniques, whether through asset dropdowns, uptierings, or double-dip structures, offer short-term relief but often trigger creditor disputes.

France, however, has long resisted LMEs, favouring court-supervised restructuring tools such as conciliation, mandat ad hoc , and accelerated safeguard proceedings. The general perception was that French law and market dynamics made creditor-on-creditor strategies nearly impossible.

Yet, Altice France's restructuring proves otherwise. With its 8.6 billion euro debt reduction, Altice France executed the largest LME in Europe to date, relying on contractual flexibility, aggressive negotiation, and anticipation of cash shortage. The question now is: Was this a one-off success, or the start of a broader trend?

In this article, **Timothée Gagnepain**, **Théophile Jomier** and **Victor Malraux** at McDermott Will & Emery in Paris, examine how LMEs are taking shape in France and what lessons can be learned from their early use.


Timothée Gagnepain, McDermott Will & Emery


Théophile Jomier, McDermott Will & Emery


Victor Malraux, McDermott Will & Emery

The French restructuring landscape: Why LMEs seemed impossible

The rise of LMEs in the United States was largely fuelled by an era of abundant liquidity and favorable credit conditions, allowing borrowers to take advantage of flexible documentation to negotiate restructuring deals.

This has allowed borrowers to engage in LMEs, shifting financial creditor recoveries, often to the detriment of non-participating financial creditors.

This selective treatment, known as "creditor-on-creditor violence," has become a hallmark of LMEs.

From a US perspective, French restructurings can seem rigid. The French market is known to rely on the supervision of a court and a mediator (mandataire ad hoc or conciliateur) to achieve collectively negotiated solutions under restrictive loan and intercreditor agreements. This structure has historically made liability management strategies far less common.

Moreover, major corporate borrowers in France are often closely linked to domestic banking relationships, supporting a culture of amicable restructuring rather than aggressive debt renegotiation.

Additionally, French law prioritises creditor equality, meaning restructurings perceived as disproportionately benefiting select creditors over others can face judicial scrutiny.

While contractual flexibility exists in the French market for some bond financings, borrowers must navigate a protective legal framework that could limit the use of LMEs. For instance, the liability of French company directors may be engaged if an asset dropdown or the incurrence of new debt is deemed contrary to the company's corporate interest, especially given that courts take a strict approach to the notion of group interest.

Over the past two decades, legal and market conditions in France have evolved, making LMEs more feasible under the right circumstances.

First, shifts in market dynamics, particularly the increasing reliance of large French companies on high-yield bonds governed by New York law, have begun to reshape the restructuring landscape, introducing greater flexibility in debt management.

Second, major legal reforms have progressively rebalanced the power dynamics between debtors, creditors, and shareholders, making LMEs more feasible under certain conditions.

The most significant of these reforms include:

- The 2005 reform, which introduced safeguard proceedings inspired by US chapter 11, allowing companies to restructure before reaching insolvency.
- Subsequent amendments in 2014 and 2016, which strengthened the ability to impose restructuring terms on dissenting creditors.
- The 2021 transposition of the EU Restructuring Directive, which introduced the classes of affected parties system, allowing cross-class cramdowns to override dissenting creditors and shareholders that are out of money.

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These reforms were not just theoretical adjustments but practical responses to major financial crises that highlighted the need for more flexible restructuring mechanisms. The 2008 financial crisis, the European sovereign debt crisis, and the Covid-19 pandemic all played a role in shaping the current framework, which now allows for greater creditor coordination and judicial intervention where necessary.

These gradual legal shifts have created an opening for LMEs. If a consensual liability management strategy fails because of creditor holdouts, debtors now have court-backed tools to impose restructuring terms, a crucial factor in making LMEs viable in France.

Altice France: The first true LME in France

Altice France's restructuring is the first major LME in France and the largest in Europe to date. The group, which relied heavily on New York law-governed high-yield debt, faced growing financial pressure in 2023 because of rising interest rates, a deteriorating performance and looming refinancing risks.

> Unlike many distressed borrowers, Altice France had no immediate debt maturities, allowing it to engage in negotiations well in advance of any liquidity shortfall. This proactive approach enabled the company to retain control over the restructuring process.

First, in March 2024, Altice France executed an asset dropdown, transferring subsidiaries beyond the reach of certain creditors.

This move, only disclosed months later, was part of a broader liability management strategy but came as a shock to investors.

By shifting valuable subsidiaries into unrestricted entities, Altice France created negotiating leverage over its financial creditors, forcing them to choose between accepting a discounted restructuring or risking a legal battle with uncertain outcomes.

The market reacted immediately, with Altice France's bonds plummeting by more than 20 points in a single day. Analysts concurred on the fact that the sharp decline reflected investors' concerns about weaker-than-expected creditor protections and the realisation that New York law flexibility allowed for aggressive restructuring tactics, even in France.

The final agreement led to an 8.6 billion euro debt reduction. Unlike other major French restructurings, such as Casino, Orpea, or Atos, where shareholders were completely wiped out, Patrick Drahi managed to retain control of Altice France without injecting new capital. Instead, creditors, primarily US investment funds such as BlackRock, Pimco, and Elliott, accepted a 45 per cent equity stake in exchange for debt relief, betting on future asset sales to drive value.

Despite the scale of the deal, legal risks remained.

> During the negotiation, some creditors threatened legal action, arguing that the asset dropdown violated Altice France's corporate interest (intérêt social) and could be challenged on criminal grounds under French law. These threats have not yet materialised into litigation but underscored the broad creditor protections under French law, particularly concerning asset transfers that could be deemed detrimental to certain stakeholders.

While financial creditors recognised the legitimacy of the transactions under New York law, they remained wary of potential French court intervention, which we believe highlights an ongoing cultural and legal divide in cross-border restructurings.

The restructuring agreement was reached in February 2024 and is now open for signature by other creditors. It should be implemented within a conciliation proceeding, with a planned approval by the Commercial Court of Paris.

If unanimity is not achieved, the transaction could still be forced onto dissenting creditors through an accelerated safeguard proceeding, demonstrating how LMEs and court-supervised restructurings are becoming increasingly complementary in France.

Lessons From Altice France: The road ahead for LMEs in France

Altice France's restructuring demonstrates that LMEs are not only possible in France but can also deliver significant debt reductions. The 8.6 billion euro write-off highlights the potential of liability management strategies for highly leveraged borrowers, as long as they are executed proactively and within contractual boundaries.

Despite its success, questions remain about the long-term viability of LMEs in France. Will French courts tolerate aggressive LMEs over time? Could future restructurings face judicial pushback? Will traditional bank-led financings resist the shift toward more aggressive US-style restructurings?

In the US, particularly in Delaware, fiduciary duties have gradually weakened, allowing directors to favor certain creditors with limited risk.

In France, even under New York law documentation, debtors remain subject to principles like a company's corporate interest, creditor equality, and the risk of asset transfers being voided during the twilight period (nullité de la période suspecte, known as claw-back provisions).

To date, no legal challenges have arisen from Altice France, and litigation in Orpea failed on procedural grounds rather than substantive legal arguments.

However, as LMEs become more common, French courts may eventually be called upon to establish clearer guidelines. Whether LMEs gain long-term acceptance will depend on judicial interpretations of transactions that prioritise certain creditors at the expense of others.

Although Altice France demonstrates that LMEs can be executed in France, its case remains highly specific. The use of New York law-governed high-yield documentation, the presence of experienced US investment funds, and the absence of immediate liquidity constraints all played key roles in making the transaction possible.

> Therefore, we believe that most French restructurings, particularly those involving bank debt, are likely to continue to experience standard court-supervised proceedings.

While LMEs are unlikely to replace formal restructuring mechanisms, Altice France has set a precedent. Other borrowers may now look to LMEs as viable restructuring tools, particularly in cases where contractual flexibility allows for creditor-friendly liability management strategies. While the French restructuring market is unlikely to mirror the US, the Altice France case suggests that under the right conditions, LME can be effectively implemented in France.

Altice France executed the first real LME on a French group, and now, everyone knows it is possible.