

MANDATE

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RESTRUCTURING IN INSOLVENCY PLAN PROCEEDINGS SUCCESSFULLY COMPLETED: GLEISS LUTZ ADVISES SKW STAHL-METALLURGIE

A Gleiss Lutz team has extensively advised the listed company SKW Stahl-Metallurgie on its restructuring and refinancing in protective shield and insolvency plan proceedings under its own administration.

Following implementation of the capital measures stipulated in the insolvency plan, the Munich Regional Court terminated the insolvency proceedings in self-administration, which had been ongoing since late 2017, with effect on 1 February 2019. In November 2018 the Munich Regional Court already granted an application for approval from the company, dismissing appeals from over 150 shareholders against the confirmation of the insolvency plan by the insolvency court. Applications for injunction filed by the shareholder group with the Federal Constitutional Court were also dismissed.

The insolvency plan allowed for the listed shares of SKW-Holding to be transferred to US financial investor Speyside Equity. For the purposes of financial reorganisation it also provided for a debt/equity swap, which was completed upon registration of the capital measures in the commercial register: As a result, Speyside Equity has converted a substantial part of its credit claims against SKW Holding into equity and now holds all of the shares in the company. The new shareholder has provided the remaining credit claims as a long-term shareholder loan for financing the SKW Group's business.

With the amendment of insolvency law by way of the Act for the Further Facilitation of the Restructuring of Companies in 2012, the legislator made it possible to include a debt/equity swap in insolvency plan proceedings even against the will of obstructive shareholders and to use so-called approval proceedings to swiftly execute an insolvency plan against which an appeal has been lodged. These opportunities were successfully utilized in the interests of the company and its creditors – despite fierce opposition from a group of shareholders. This was the first case since enactment of the Act for the Further Facilitation of the Restructuring of Companies in which a group of shareholders attempted to prevent a reorganisation by way of a debt/equity swap in insolvency plan proceedings with all available means despite the worthlessness of their shares. We were, however, able to overcome this resistance. Key elements of the Act for the Further Facilitation of the Restructuring of Companies have thus proven successful in practice.

The following team of Gleiss Lutz lawyers, led by Dr. Andreas Spahlinger (partner, restructuring, Stuttgart), advised SKW: Steffen Carl (partner), Dr. Tobias Harzenetter (partner, both corporate and capital markets, Munich), Dr. Matthias Tresselt (partner, Stuttgart), Sonja Miletzki (Berlin), Dr. Alexander Nagel (counsel, Düsseldorf), Dr. Florian Wagner, Joachim Glöckler (Stuttgart, all restructuring), Dr. Helge Kortz (partner), Dr. Thomas Kulzer (counsel, both finance, Frankfurt), Dr. Martin Schockenhoff (partner, corporate, Stuttgart), Dr. Burghard Hildebrandt (partner), Dr. Eva Koch (both constitutional law, Düsseldorf).

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