Restructuring

DLA Piper’s restructuring lawyers have significant experience advising clients on investigation, enforcement, litigation and asset recovery on a multijurisdictional basis. We advise clients on all matters relating to public and private companies in underperforming and distressed situations.

We manage assignments from the mid-market to the largest national and international restructurings and insolvencies. Our experience also extends to any contentious issues arising from restructurings and insolvencies.

DLA Piper serves a diverse client base that includes debtors, lenders, government entities, trustees, shareholders, senior executives, as well as distressed debt and asset buyers and investors.

With dedicated restructuring lawyers across the Americas, Asia Pacific, Europe, Africa and the Middle East, we have the knowledge, experience and resources to address our clients’ restructuring and insolvency needs on a national and international basis.

CAPABILITIES

We counsel clients on all aspects of restructuring and insolvency/bankruptcy, whether in anticipation of them or in dealing with their consequences.

We advise clients on:

- Debt and asset tracing and recovery
- Disposals, including pre-packaged solutions, distressed M&A and real estate workout
- Distressed debt trading
- Financial restructuring
- Formal insolvency/bankruptcy procedures and creditor committee representation
- Insolvency/bankruptcy-related investigation, litigation and enforcement
- International restructuring strategy and procedures
- Operational restructuring

In a number of European countries our restructuring lawyers take insolvency office holder appointments.

KEY CONTACTS

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RELATED SERVICES

- Corporate
- Finance
- International Corporate Reorganizations
EXPERIENCE

We advise clients across a wide range of industry sectors and have particular strength in energy, financial services, healthcare, hospitality and leisure, real estate, retail, sports, technology and transportation.

Some of the most significant cross-border matters we have recently worked on are set out below:

- **Abengoa** – Represented Abengoa US Holding LLC and affiliates, the US unit of Spanish renewable energy company Abengoa SA, in its chapter 11 and chapter 15 petitions in the US Bankruptcy Court for the District of Delaware in Wilmington. Also represented US Abengoa SA with the approved sale of five ethanol plants in Indiana, Illinois and Nebraska for more than US$355 million.

- **China Fishery Group Limited** – Represented Rabobank, Standard Chartered Bank and DBS in connection with the multijurisdictional restructuring and insolvency proceedings of China Fishery Group Limited, one of the world’s largest producers of fish oil and fishmeal. DLA Piper successfully sought the appointment of a chapter 11 trustee over one of the key entities in the US bankruptcy proceedings in the Southern District of New York.

- **Trident Microsystems** – Representing Trident Microsystems, Inc., a chip and software company, in its filing for chapter 11 in the US Bankruptcy Court for the District of Delaware and the sale of Trident's set-top box business unit to Entropic Communications in exchange for the assumption of obligations and US$55 million in cash, the sale of Trident’s TV business unit to Sigma Designs in exchange for the assumption of obligations and for US$30 million, and the winding-up of Trident's 16 foreign subsidiaries located in 11 different countries. The 2013 M&A Advisor International Awards honoured us with the ‘Corporate/Strategic Acquisition of the Year’ award (over US$50 million to US$100 million) for the sale of Trident Microsystems.

- **Dawnay Day** – Advising Norwich Union (now Aviva), the largest senior lender, and BDO Stoy Hayward as administrators on the restructuring of Dawnay Day, a global real estate and financial services conglomerate with assets of £1 billion.

- **Nortel Networks Canadian Creditors Committee** – Engaged as US and cross-border counsel to the Nortel Networks Canadian Creditors Committee in the multi-nation insolvency proceedings of Nortel's Canadian parent and its US and EMEA affiliates, including their dispute over how $7.3 billion in global asset sale proceeds should be allocated among them.

- **Lexi Holdings** – Advising a syndicate of UK banks and KPMG as administrators in the restructuring/insolvency of Lexi Holdings. The company was defrauded of approximately £50-70 million. We obtained judgments against 18 parties, committed the main director behind the fraud to prison, and recovered approximately £40 million in real estate worldwide.

- **Ineas** – Advising on the administration of Ineas, a pan-European online car insurance company. This was one of the largest insolvencies of an insurance company in Europe in recent history. We worked closely with the Dutch Central Bank and the Dutch Financial Supervision Authority with regard to the treatment of insurance policies, continuation and/or transfer of activities and the application of guarantee funds.

- **Solar Enertech Corp** – Advising on the restructuring of Solar Enertech Corp, a US-headquartered solar product manufacturer with Asian operations in Hong Kong and Shanghai. We were appointed, in conjunction with FTI Consulting, to restructure both the parent company and its subsidiaries.

- **Velti plc** - Representing Velti plc’s US subsidiaries in connection with its chapter 11 case in Wilmington, Delaware and the section 363 sale of its US, UK and India mobile marketing businesses and certain of its US-based advertising businesses to GSO Capital Partners, the credit division of Blackstone. The 2014 M&A Advisor International Awards honored us with the ‘Restructuring Deal of the Year’ award (under $1 billion) for the chapter 11 Restructuring of Velti plc’s US subsidiaries.

- **Lehman Waterfall Application** - Advising the administrators of Lehman Brothers Limited (LBL) over the last 18 months on the high profile Lehman Waterfall Application, which is set to, amongst other things: determine how realisations in LBL’s estate (expected to comprise of approximately £300 million) will be distributed; determine how claims for interest rank within the insolvency waterfall; and have a substantial impact on the value of LBIE debt of which there is currently a very active market.

- **Project Dawn** - Working with IBRC and the Special Liquidators on the various Phases of the IBRC loan book sale. Leading various workstreams including 1) undertaking reviews of the c. 40 connections that DLA were initially in relation to, 2) creating a data room for the DLA connections, 3) reviewing all loan and security documents for transferability, 4) responding to Q&A sessions from bidders.

- **Scottish Resources Group** - Advising the Bank of Scotland plc on the restructuring and the subsequent liquidation of Scottish Coal Company Limited (SCCL) and the various environmental risks to the Bank following liquidation. SRG was the largest
surface mining producer in the UK operating 7 open-cast mines and had a turnover exceeding £200m and a land-bank of some 25,000 acres. This matter attracted significant press in Scotland given its strategic importance and the fact that it employed around 800 employees.

INSIGHTS

Publications

Global Insight - Issue 30, October 2019

7 October 2019
RESTRUCTURING - GLOBAL INSIGHT SERIES

News, views and analysis from DLA Piper's Global Restructuring Group.

Secured creditors and Colombia’s insolvency proceedings

7 October 2019
The Columbian Secured Interest Law, which came into effect in 2014, has substantially affected the legal scope of creditors’ rights in the context of insolvency proceedings, potentially creating a new type of creditor; the secured creditor. Is this new type of creditor compatible with the current hierarchy system, and what are the specific rights of that new creditor in arrangement proceedings?

Understanding DIFC’s new insolvency law: What impact will it have?

7 October 2019
Peter Somekh analyses whether the new insolvency law recently adopted by the Dubai International Finance Centre can effectively promote the rehabilitation of viable businesses whilst ensuring fairness and preservation of stakeholder rights and value.

Getting insolvency proceedings recognized in the UK: Have you thought about section 426?

7 October 2019
Many distressed situations involve a cross-border element. Section 426 of the Insolvency Act 1986 is a unique tool that can be used where insolvencies taking place in a designated jurisdiction require recognition or assistance in the UK. Here we outline how this tool can be used, its scope and the advantages for cross-border situations.

Dictionary of Insolvency Terms in EU Member States

16 September 2019
Despite some efforts towards a more consistent approach to financial distress, there continues to be a variety of restructuring and insolvency procedures. To assist, our Restructuring team has launched a dictionary, which lists the key features of corporate, personal and partnership insolvency proceedings for EU member states.

No-deal Brexit: Impact on cross-border corporate recovery and insolvency
While a range of outcomes, including a departure under the terms of the current Withdrawal Agreement, remains possible, it is important for businesses to plan for a no-deal Brexit, in which the UK leaves the EU without a withdrawal agreement or other deal. Here we look at the potential impact of a no-deal Brexit on aviation law.

Supreme Court Corner

24 July 2019

The Court clarifies a circuit split over copyright in Fourth Estate and, in Mission Product Holdings, says a licensee's rights survive the licensor's bankruptcy.

Energy related risks in corporate transactions and restructurings

16 July 2019

Numerous energy-intensive companies having production facilities in Germany benefit from energy regulatory opportunities to reduce their electricity costs. The economic benefits of using these opportunities can be significant and quickly amount to several million euros a year. This article explores the risks in this context.

Global Insight - Issue 29, June 2019

28 June 2019

RESTRICTURING - GLOBAL INSIGHT SERIES

News, views and analysis from DLA Piper's Global Restructuring Group.

Creditors' schemes of arrangement in Australia

26 June 2019

The use of creditors' schemes of arrangement is on the rise in Australia (as we discussed in our previous article - Update on Creditors Schemes of Arrangement in Australia). Along the way the Australian courts have made valuable contributions to international scheme jurisprudence. In this article we look at some of these contributions and then explore how Australian law might be further developed to remain a leading jurisdiction for creditors’ schemes.

Goods vehicle operators' licenses in an insolvency context

25 June 2019

When dealing with a goods vehicle operator in an insolvency context: early engagement with the Traffic Commissioner is crucial; directors should be proactive in informing the Traffic Commissioner of a material change in circumstances (e.g. a change in the company’s financial standing, which extends to launching a company voluntary arrangement (CVA)); and insolvency practitioners should engage as early as possible with the Traffic Commissioner and build such engagement into their contingency planning.

Debt restructuring in the UK and Spain
Since the turn of the century, many foreign companies - including large Spanish groups - have resorted to the English scheme of arrangement procedure under part 26 of the UK Companies Act in order to restructure their debt. Between 2009 and 2015, EUR11 billion of Spanish debt has been restructured in English courts.

Read the full article.

Global Insight - Issue 28, April 2019

2 April 2019
RESTRUCTURING - GLOBAL INSIGHT SERIES
News, views and analysis from DLA Piper's Global Restructuring Group.

Brexit Update: What next for cross-border restructuring?
2 April 2019
Immediately following the results of the UK referendum on exiting the EU in June 2016, we wrote about the potential impact of Brexit on cross-border restructuring and insolvency work. As we identified then, the key issue in this area is the potentially significant implications of losing the reciprocal effect of the EU Regulation on insolvency proceedings and the Brussels Regulation (recast). In this article we focus on the impact of the loss of recognition under the Insolvency Regulation.

Down but not out (of the money)
26 March 2019
It is a common scenario: a fully encumbered asset is sold, with junior lienholders out of the money. Until recently, it was widely accepted that an out of the money junior lien was worthless and not entitled to any of the proceeds from a sale free and clear. Not anymore.

Australia: 2018 in review, and what's in store for 2019?
25 March 2019
In this article, we review developments in the Australian insolvency and restructuring landscape during 2018, with an overview of key judgments and legislative changes, and look at what lies ahead in 2019.

Global Insight - Issue 27, December 2018
17 DEC 2018
RESTRUCTURING - GLOBAL INSIGHT SERIES
As we send this final edition of Global Insight for 2018, Rick and I would like to thank you for your continued support of our multi-award-winning Global Restructuring Group.

Martial law is introduced in Ukraine starting from 26 November 2018
On 26 November 2018, the Parliament of Ukraine imposed temporary martial law in some regions of Ukraine approving respective Decree of the President of Ukraine. The martial law is introduced in response to escalation of Russian aggression in the Black Sea and the Sea of Azov. The Law will come into force only after it is officially published.
NEWS

DLA Piper advises Homebase on Bathstore acquisition

23 July 2019
DLA Piper today announced that it has advised leading home improvement and garden retailer, Homebase, on the acquisition of certain assets of specialist bathroom retailer, Bathstore from its administrators. The move will see Bathstore concessions added to Homebase stores as well as securing the continued operation of 44 of Bathstore’s retail outlet.

DLA Piper named among the top 10 firms globally for Restructuring

18 June 2019
Global Restructuring Review (GRR) has unveiled its annual ranking of the world’s leading restructuring law firms, with DLA Piper ranked #7 in the GRR 30, up three places from the previous year.

DLA Piper announces partnership promotions for 2019

1 APR 2019
DLA Piper is proud to announce that 77 lawyers have been promoted to its partnership. The promotions are effective as of April 1, 2019 in the United States and May 1, 2019 for EMEA and Asia Pacific. The promotions were made across many of the firm’s practice areas in 43 different offices throughout 20 countries.

DLA Piper advises on the sale of Synseal Group in job-saving deal

12 MAR 2019
DLA Piper has advised KPMG administrators, Chris Pole and Mark Orton, in connection with the sale of Synseal Group, to Aperture Trading, saving more than 1,000 jobs.

DLA Piper advises on the takeover of Holzverpackung Hüfingen by Pilous

5 OCT 2018
DLA Piper, together with PLUTA Management GmbH, has advised Holzverpackung Hüfingen on its takeover by the renowned specialist for industrial packaging, PILOUS, including its subsidiary in Spain, with effect from 31 October 2018.

DLA Piper announces partnership promotions for 2018

3 APR 2018
DLA Piper is proud to announce that 62 lawyers have been promoted to its partnership. The promotions are effective as of 1 April 2018 in the United States and 1 May 2018 for EMEA and Asia Pacific. The promotions were made across many of the firm’s practice areas in 42 different offices throughout 20 countries.

DLA Piper doradzała Metro Properties sp. z o.o. w precedensowej sprawie eksmisji Praktiker Polska sp. z o.o. w restrukturyzacji z 9 centrów handlowych

6 Nov 2017
DLA Piper z sukcesem doradzała Metro Properties sp. z o.o., podmiotowi z koncernu handlowego Metro Group i operatorowi centrów handlowych, w precedensowej sprawie związanej z eksmisją Praktiker Polska sp. z o.o. w restrukturyzacji z 9 wielkopowierzchniowych marketów budowlanych zlokalizowanych na terenie Polski. Obsługa prawna obejmowała każdy proces prowadzonych działań, łącznie z wypracowaniem strategii procesowej w sprawie.

In Poland

OVERVIEW
Our restructuring team in Poland advises on all aspects of restructuring and insolvency, whether in anticipation or in dealing with their consequences.

Across our team of experienced lawyers and tax advisers we are also able to draw from our complementary know-how in corporate, finance, bankruptcy, employment, real estate and tax law. Our multiple areas of competence mean that in addition to benefiting from our high-quality advice and service levels, our clients find added value in our broad knowledge basis and solution-oriented approach. We provide a dedicated team for each project and deliver bespoke solutions to meet our clients’ legal requirements.

Our restructuring team in Poland is part of our Global Restructuring Group, which is one of the world’s leaders. With dedicated restructuring lawyers across Europe, the Americas, Asia Pacific and the Middle East, we have the knowledge, experience and resources to address our clients’ restructuring and insolvency needs on a national and international basis. Around the world, our dedicated restructuring lawyers ‘on the ground’ have extensive knowledge of local markets and the associated challenges our clients face.

CAPABILITIES
We advise clients on all aspects of restructuring and insolvency, including:
Debt and asset tracing and recovery
Disposals, including pre-packaged solutions, distressed M&A and real estate workout
Distressed debt trading
Financial restructuring
Formal insolvency procedures and office holders' conduct and regulation
Insolvency-related investigation, litigation and enforcement
International restructuring strategy and procedures
Operational restructuring
Protection against key customer and supplier insolvency

EXPERIENCE

Some significant restructuring matters we have recently worked on include:

- Advising the leading Polish energy groups on the acquisition of a controlling stake in a leading Polish construction company, and on the financial restructuring of the acquired entity
- Advising Polish energy group on the restructuring of the country’s second largest coal mine
- Advising a joint venture between to major global companies on obtaining state aid for a new EUR250 million investment in a state-of-the-art aircraft engine service centre
- Advising a Polish state-owned agency on the restructuring of its investment in a shipyard business
- Advising a Polish state-owned agency on the acquisition and restructuring of the largest passenger railway operator in Poland
- Advising Poland's largest energy group, as a shareholder of SwePol Link AB, on the sale of the assets of the high-voltage direct current (HVDC) electricity link between Poland and Sweden by SwePol to Polish and Swedish national grid operators. We advised on restructuring measures, vendor due diligence, tax advice and complex advice in the negotiation of settlement agreements between stakeholders of the project. Stakeholders included Vattenfall AB, Svenska Kraftnet and PSE Operator S.A., as well as Polish and Swedish Energy Stock Exchanges
- Advising one of the world’s leading food sector companies in relation to its EU-enforced sale of its Polish business. We advised on the demerger of the business, its subsequent sale and other related agreements, such as transitional service agreements and co-manufacturing agreements
- Advising one of Poland's leading manufacturers of agricultural oils and fats on the company's financial and economic restructuring
- Advising a leading European outsourced diagnostic imaging service provider on the sale of shares in its Polish subsidiary and on the company's recapitalisation through the conversion of intra-group loans into equity
- Assisting a world leader in the cosmetics industry on the company's restructuring and on the implementation of other organisational changes. Work included the preparation of a voluntary redundancy scheme together with a protection package for employees
- Advising our client on the acquisition of a warehouse in Poland, on obtaining financing for the transaction and on the leaseback of the acquired warehouse. We also supported the client during negotiations with financial institutions and the warehouse vendor
- Representing a construction sector company during its bankruptcy proceedings and against claims from subcontractors. We advised on a number of fronts, including on the renewal of contracts, the settlement of accounts and the set-off of mutual claims. We provided representation during negotiations over the bankruptcy proceedings’ (including filing claims in the bankruptcy proceedings and involvement in the creation of the board of creditors) and advised in relation to criminal proceedings
- Representing a company from the footwear industry in a debt restructuring procedure. Our services included assisting in negotiations with creditors as well as advising on which bankruptcy options would be most appropriate for the client