



## 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.

### CAPABILITES

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

#### Rachel Ehrlich Albanese

Partner  
New York  
T: +1 212 335 4775  
rachel.albanese@dlapiper.com

#### Craig Martin

Partner  
Wilmington  
T: +1 302 468 5655  
craig.martin@dlapiper.com

#### Chris Parker

Partner  
London  
T: +44 20 7153 7402  
chris.parker@dlapiper.com

#### Dr Dietmar Schulz LL.M.

Partner  
Frankfurt  
T: +49 69 271 33 240  
dietmar.schulz@dlapiper.com

- Corporate
- Finance
- International Corporate Reorganizations

## EXPERIENCE

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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.
- Viaduct Capital Limited - Advised receivers on priority issues relating to security sharing arrangements between company subject to

receivership and Mutual Finance Limited (In Receivership).

- Dominion Finance Group Limited - Advised the receivers of Dominion Finance Group Limited on all aspects of the receivership.

## INSIGHTS

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### Publications

#### DeFi participants should prepare to confront the unknown as bankruptcies loom

23 June 2022

Do not assume that a bankruptcy involving a DeFi platform would operate in a manner similar to other financial institution bankruptcy cases.

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#### Examinership in exceptional times

29 April 2022

This article provides a summary overview of the examinership process and considers recent developments in this sphere. In light of the prevailing economic uncertainty, examinership is likely to become ever more relevant to companies and their directors across Ireland and beyond over the coming months.

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#### Supporting the health of your health system: 2022

3 January 2022

Helping you tend to healthcare system wellness throughout the business life cycle.

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#### Lexology Getting The Deal Through

3 December 2021

DLA Piper contributed to the Restructuring & Insolvency Luxembourg chapter for Lexology's *Getting The Deal Through* publication. This publication answers key questions and trends on the topic.

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#### Pension Schemes Act 2021: The new criminal offences and their potential impact on restructuring transactions

25 October 2021

The Pension Schemes Act 2021 received Royal Assent on 11 February 2021. Most notable among its provisions is the introduction of two key new criminal offences into the Pensions Act 2004 (PA 2004). It is anticipated that these new offences will become effective at some point in autumn 2021.

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#### Rent deferrals in bankruptcy during the COVID-19 pandemic

24 May 2021

The COVID-19 pandemic created unprecedented disruptions across the global economy, perhaps most severely in the retail sector. Shelter-in-place orders, government-mandated closures and other restrictions drastically reduced or entirely wiped out revenue streams, resulting in an increased number of bankruptcy filings by retail debtors.

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## Restructuring Global Insight

24 May 2021

### RESTRUCTURING - GLOBAL INSIGHT

In our May edition of Global Insight we look at five topics from various jurisdictions around the world. From the UK we cover two areas - the new Pensions Schemes Act 2021 and the criminal offences and their potential impact on restructuring transactions; and the UK's solutions within the legal and operational toolkit for retail businesses.

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## Solutions within the legal and operational toolkit for businesses in Retail (and the supply-chain) to enhance resilience

24 May 2021

The Government's roadmap out of lockdown signals a return to trading for a number of businesses hard-hit by the COVID-19 pandemic.

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## WHOA, an update: approval of the first Dutch scheme

24 May 2021

As already announced in the article of Marc Molhuysen and Olmo Weeshoff of 20 December 2021, the new Dutch pre-insolvency tool, 'The Act regarding the binding approval of debt restructuring agreements', widely referred to as the WHOA ( *Wet homologatie onderhands akkoord*) or the "Dutch Scheme" entered into force on 1 January 2021.

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## UK Corporate Insolvency And Governance Act: Moratorium

Updated 01 April 2021

The Corporate Insolvency and Governance Act 2020 has introduced a new standalone moratorium procedure for companies. The moratorium is part of a package of significant legislative reforms contained in the Act, intended to enhance the UK's restructuring rescue culture. These were originally consulted on between 2016 and 2018 and were fast-tracked to deal with the COVID-19 pandemic.

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## Gategroup: Planning and scheming - are super schemes actually insolvency proceedings?

23 February 2021

The new Part 26A Companies Act Restructuring Plan procedure, dubbed the "Super Scheme", was gathering pace in the English courts since its introduction in June last year. Last week's judgment in gategroup presents a potential speed bump in terms of its implementation as the restructuring tool of choice in European cross-border restructurings.

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## Restructuring Global Insight – January 2021

18 January 2021

### RESTRUCTURING - GLOBAL INSIGHT

2020 was a challenging, but exciting, year of growth and development for the DLA Piper Global Restructuring Group. We would not have been able to achieve the level of success we did without the support of our clients and dedication of our professionals who remained steadfast through difficult circumstances, and continue to do so.

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## **Extension of USD LIBOR – ICE Benchmark Administration Consultation**

12 January 2021

On 30 November 2020, the ICE Benchmark Administration (IBA) which compiles and oversees LIBOR, announced that it will hold a consultation on its intention to extend most US Dollar LIBOR (USD LIBOR) tenors until 30 June 2023.

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## **COVID-19: An international guide to changes in insolvency law**

1 December 2020

In response to the COVID-19 outbreak, a number of insolvency laws have been updated.

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## **Some comfort for directors with the reintroduced suspension of wrongful trading**

1 December 2020

The UK Government has reintroduced the temporary suspension of wrongful trading measures from 26 November 2020 until 30 April 2021 (the suspension was originally introduced in March 2020 and expired on 30 September 2020).

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## **COVID-19 – Galvanising your business against supply chain and customer insolvency risk**

7 October 2020

The risk of unforeseen counterparty customer or supplier financial distress and failure amidst the on-going challenges for businesses from COVID-19 means that pre-emptive legal and operational protections against the risk of heavy financial loss or business disruption from customer/supplier failure are more valuable than ever.

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## **Draft bill of the Stabilization and Restructuring Framework**

30 September 2020

Germany's planned Stabilization and Restructuring Framework (Stabilisierungs- und Restrukturierungsrahmen) is essentially an independent, out-of-court tool to implement a restructuring process by means of a restructuring plan in order to avert insolvency proceedings.

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## **Vlog series: How to raise equity capital during the Coronavirus pandemic (UK)**

4 August 2020

The first half of 2020 has seen an unprecedented volume of activity by companies raising capital through follow-on equity offerings on the London Stock Exchange in response to the Coronavirus pandemic. There have been over 140 equity issues on the London Stock Exchange's main market or AIM since 20 March 2020 raising more than GBP14 billion.

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## **Events**

## [Previous](#)

### **EU Regulatory Data Protection: A legal and policy appraisal of an emerging legislative framework**

5 May 2022  
Webinar

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### **Embracing Digital Evolution**

15 September 2021  
Webinar

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### **IPEM 2021**

8-9 September 2021  
IPEM 2022  
Paris

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### **Pan-European Restructurings – challenges and solutions when working across borders – and a CRO perspective**

15 April 2021  
Webinar

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### **Payments Forum – New Year challenges for lawyers in the payments sector**

26 January 2020  
Webinar

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### **Das neue Investitionskontrollgesetz**

15 Dec 2020  
Webinar

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### **Webinar - Restructuring, Hospitality & Leisure - Challenges and Opportunities**

19 November 2020  
Webinar

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### **Essential Legal Update 2020**

12 October 2020 - 15 October 2020  
Webinar

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## NEWS

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### **Best Lawyers / Handelsblatt recommends a total of 90 lawyers from DLA Piper in Germany**

24 June 2022

This year, the U.S. publisher Best Lawyers has once again recognized numerous DLA Piper lawyers in Germany in various areas of law.

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### **DLA Piper advises Francotyp-Postalia on acquisition of Azolver**

24 March 2022

DLA Piper has advised Francotyp-Postalia Holding AG on the acquisition of all shares in the operating companies of Azolver Holding GmbH.

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### **DLA Piper advises The Phoenix on financing round for everphone**

23 December 2021

DLA Piper has advised The Phoenix Insurance Company on a USD200m financing round for Berlin-based phone-as-a-service company everphone.

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### **DLA Piper grows Finance, Projects and Restructuring practice in Ireland with new partner hire**

10 November 2021

DLA Piper today announces the appointment of Gavin Smith as a partner in the firm's Finance, Projects and Restructuring (FP&R) group. Gavin will be responsible for leading DLA Piper's Restructuring team in Ireland.

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### **DLA Piper advises Geisel Privathotels on the sale of Hotel Königshof in Munich**

3 November 2021

DLA Piper has advised the Munich hotel group Geisel Privathotels on the sale of "Neubau Hotel Königshof" to the family-owned company Inka Karlsplatz GmbH & Co. KG (Inka Karlsplatz). As project developer, Geisel Privathotels will complete the new five-star hotel building in Munich's city centre at Karlsplatz (Stachus) by mid-2023.

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### **DLA Piper advises Tillotson on the acquisition of the ignition technology division of the PVL Group from insolvency**

29 June 2021

DLA Piper has advised Tillotson on the acquisition of the business operations of the ignition technology division of the PVL Group from insolvency administrator Volker Böhm of Schultze & Braun.

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## **DLA Piper announces International Restructuring practice leadership changes**

14 June 2021

DLA Piper has appointed partners Chris Parker and Dietmar Schulz as International Co-Chairs of the firm's Restructuring practice.

Chris and Dietmar succeed Peter Somekh, who after many successful years will be focusing on his roles as Regional Managing Partner for the Middle East and Managing Partner for DLA Piper Africa, as well as remaining an active partner in the practice.

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## **DLA Piper advises IHG Hotels & Resorts on continuation of Tidal Group hotels and transfer to new operator Westmont**

2 March 2021

DLA Piper has advised the global InterContinental Hotels Group (IHG) Hotels & Resorts on the continuation of 10 hotels of franchisee Tidal Operations Germany GmbH (TOG) and the subsequent transfer to a new operator, Westmont Hospitality Group (Westmont).

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## **DLA Piper appoints new International Head for Finance, Projects & Restructuring practice**

25 February 2021

DLA Piper today announces the appointment of David Trott as a partner, and International Group Head of the firm's Finance, Projects and Restructuring group.

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## **DLA Piper advises Otto Group on the sale of Hansecontrol to Qima**

15 February 2021

DLA Piper has advised Otto Group in relation to the agreement to sell its Quality Assurance and Product Safety service provider, the Hansecontrol Group headquartered in Hamburg, to Qima, a leading global provider of supply-chain compliance solutions, headquartered in Hong Kong.

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## **DLA Piper advises Lufthansa Group as main creditor in ZIM Flugsitz insolvency proceedings**

11 January 2021

DLA Piper has successfully advised the Lufthansa Group with its entities Deutsche Lufthansa AG, Lufthansa Technik AG and SWISS as main client and main creditor in the insolvency proceedings of ZIM Flugsitz GmbH.

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## **DLA Piper advises Lufthansa Technik AG on the sale of its majority stake in Lufthansa Bombardier Aviation Services**

7 January 2021

DLA Piper has advised Lufthansa Technik AG on the sale of its majority stake in Lufthansa Bombardier Aviation Services GmbH to the Canadian business jet manufacturer Bombardier. Lufthansa Technik AG previously held 51 percent of the joint venture and Bombardier 29 percent. A further 20 percent were held by co-shareholder ExecuJet, which also sold its shares to Bombardier.

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## **DLA Piper advises on sale of FLABEG to CORDET**



2 October 2020

DLA Piper has advised the insolvency administrator of the automotive supplier FLABEG, lawyer Volker Böhm of Schultze & Braun, on the sale of the group with headquarters in Germany and international sites (France, Hungary, China, Brazil, USA) to international investment company CORDET.

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### **DLA Piper lawyer elected INSOL Europe Council Member**

1 October 2020

DLA Piper Restructuring counsel Florian Bruder has been elected member of the Council of the INSOL Europe insolvency association, where he will represent Germany for the next three years, effective 2 October 2020.

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### **DLA Piper recognised at the Australasian Law Awards 2020**

8 September 2020

DLA Piper's Restructuring and Finance practices have been recognised at the annual 2020 Lawyers Weekly Australian Law Awards, announced on 20 August 2020.

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### **DLA Piper appointed as trustee in Jet Time bankruptcy proceedings**

27 August 2020

DLA Piper is advising Danish airline Jet Time A/S as the company filed for bankruptcy at the Maritime and Commercial Court in Copenhagen on 21 July 2020.

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## **In Austria**

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### **OVERVIEW**

Our dedicated restructuring team based in Austria advises local and international clients on all aspects of restructuring and insolvency, whether in anticipation of them or in dealing with their consequences.

We serve a diverse client base encompassing debtors, lenders, government entities, trustees, shareholders, senior executives, and distressed debt and asset buyers and investors. We work closely with lawyers in our finance, corporate, tax and real estate practices to offer a full service provision to our clients.

Our restructuring team in Austria is part of our Global Restructuring Group, which is one of the world's leaders. With dedicated restructuring lawyers across the Americas, Asia Pacific, Europe 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 specialist restructuring lawyers 'on the ground' have extensive knowledge of local markets and the associated challenges our clients face.

### **CAPABILITIES**

We advise clients on:

- Debt and equity rescheduling and refinancing
- Debt recovery

- Disposals and pre-packaged solutions
- Distressed debt trading
- Distressed mergers and acquisitions
- Distressed Real Estate
- Insolvency procedures and office holders' conduct and regulation
- Non-performing loan advice
- Protection against key customer and supplier insolvency
- Restructuring and reorganisation strategies
- Rescue planning and implementation
- Restructuring structured and leverage finance vehicles
- Security enhancement and prioritisation

## 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 key matters we have recently worked on are set out below:

- Pfizer – Advising the world's largest pharmaceutical corporation on the spin-off of its Animal Health Business in Austria. Pfizer decided to separate its worldwide animal health business from the human health sector. We implemented the corporate restructuring of the business, which in Austria was carried out as a spin-off, and also advised on the related operational measures. This challenging transaction was key to the success of this global project, and was conducted jointly with all of the Big Four accountants, simultaneously in 60 countries. Close coordination with our client was essential and we implemented continuous and seamless teamwork with colleagues in our international offices. Furthermore, the transaction had to be carried out according to a very tight timeframe – we successfully completed the stages of the transaction as planned and scheduled.
- Austrian industrial group – Advising on the extensive restructuring of the client's entire group in order to move it out of a state of crisis and back towards solid commercial performance. We advised on the implementation of restructuring measures, including the sale of various assets and trademarks, the conclusion of royalty agreements for the continued use of sold trademarks, the transfer of obligations, contributions in kind, the establishment of a perpetual bond and obtaining loan financing under the ULSG (the Austrian financial market crisis corporate financing tool, established by the Republic of Austria). These measures were followed by a regular bank refinancing of the loan.
- Catlin Group – Advising Catlin Group, one of the world's leading insurance and reinsurance corporations, on the reorganisation of its Austrian business as part of a restructuring that included the cross-border merger of Catlin Innsbruck GmbH with a German group company and the establishment of subsidiaries in Austria.
- Diamond Resorts – Advising Diamond Resorts, Inc., a leading international hotel and entertainment group, on its global restructuring. Diamond Resorts conducted more than 40 cross-border mergers in Europe as part of the transaction, 30 of which were based in Austria. This was one of the most complex corporate restructurings ever completed in Austria, not only because it involved such a large volume of cross-border mergers under the relatively young European cross-border merger regime, but also because of the parallel implementation of both the import and export mergers.
- Gasometer Towers and Entertainment Centre – Advising on the restructuring of the Gasometer Towers (mixed use residential and business properties). We were appointed regarding the project's complex financing structure and securities, including security documentation. We also advised on the restructuring of the Entertainment Centre, the realisation of securities, the transfer of the project to the financing bank and the eventual sale of the project to an investor.
- Leading Austrian bank – Advising on the debt restructuring of a portfolio of 12 hotels across CEE under a loan agreement in default. Our work included restructuring the relationship between bank, borrower and sponsors, in particular with respect to recapitalisation, and implementing changes to covenants and security to avoid insolvency.