Global Restructuring and Insolvency Guide - Germany

| Contents |
| --- |
| To generate table of contents, right-click here and select **Update Field.** |

Please select a topic from the menu.

*This content was last reviewed around August 2021.*

**Remark:** Germany is a member of the European Union. Please refer to the section "European Union" under Quick Links below to learn more about the implications with respect to the European rules that apply in the field of restructuring and insolvency. The European Restructuring Directive has been implemented in Germany in a law called "StaRUG," which took effect on 1 January 2021 (please see below in "Restructuring regime under StaRUG" for more details).

# Initial Considerations

## Can you take security over all types of assets, including accounts receivable?

**Regular insolvency proceedings**

In principle, you can take security over all types of assets; however, taking securities over assets follows German collateral security law, whereupon securities must satisfy the principle of certainty in regard to specification; a third party must be able to identify exactly which assets are referred to. References to "working capital" or "50% of the assets" as such would not be specific enough.

The most common forms of security over **immovable** assets are the following:

Land charge (Grundschuld)

Mortgage (Hypothek)

Notarization and registration in the land register (Grundbuch) are required for both.

The most common forms of security over **movable** assets are:

(Prolonged) retention of title ((verlängerter) Eigentumsvorbehalt)

Security transfer (Sicherungsübereignung)

Security assignment of receivables (Sicherungsabtretung)

Pledge (Pfandrecht)

**Insolvency plan/protective shield**

Within a protective shield/insolvency plan, the same fundamental principles of German collateral security law apply.

**Restructuring regime under StaRUG**

Within a restructuring regime under StaRUG, the same fundamental principles of German collateral security law apply.

## What is the nature of the insolvency process?

**Regular insolvency proceedings**

Court process leading to: (1) A (prepackaged) asset sale, (2) a liquidation or (3) an insolvency plan often concerning the restructuring of the legal entity.

**Insolvency plan/protective shield**

**Protective shield:** A three-month "protection" period (prior to insolvency proceedings) during which the debtor remains in charge of the business under the supervision of a court-appointed insolvency custodian and has to develop an insolvency plan. However, the debtor must still file a petition for the opening of insolvency proceedings to start the protective shield process.

**Insolvency plan:** A process within insolvency proceedings with the aim to restructure a debtor's debts and business

**Restructuring regime under StaRUG**

**Restructuring framework:**

The debtor remains in charge of the business; a court-appointed restructuring professional (Restrukturierungsbeauftragter) can be involved only upon application of the debtor or in sensitive cases (e.g., in case of inclusion of consumer claims in the restructuring plan; general stabilization order; if it is foreseeable that the restructuring objective can only be achieved by way of a cross-class cramdown).

**Restructuring moderation:**

The debtor remains in charge of the business; a court-appointed restructuring moderator (Sanierungsmoderator) can be involved only upon the application of the debtor.

## What is the solvency requirement for a company to file a case in this jurisdiction?

**Regular insolvency proceedings**

The debtor must be:

Illiquid: unable to meet payment obligations when due

Imminent illiquidity: likely to become cash-flow insolvent (imminent illiquidity alone triggers the right, but not an obligation of the managing directors to file for insolvency proceedings)

(3) Overindebted: Available assets do not cover liabilities unless the debtor is more likely to survive than not.

**Insolvency plan/protective shield**

**Protective shield:**

The debtor must not be illiquid.

The debtor must be imminent illiquid or overindebted.

Intended restructuring must not be evidently futile.

**Insolvency plan:** The debtor must be (imminent) illiquid and/or overindebted.

**Restructuring regime under StaRUG**

**Restructuring framework:**

Imminent illiquidity is required; however, a debtor must not be illiquid/overindebted.

**Restructuring moderation:**

Debtors need to be in financial/economic difficulties (not necessarily in imminent illiquidity); however, debtors must not be illiquid/overindebted.

## Is there a requirement to demonstrate COMI ("centre of main interests") for a company to file a case in this country?

**Regular insolvency proceedings**

Yes

**Insolvency plan/protective shield**

Yes

**Restructuring regime under StaRUG**

Yes

## Is restructuring of both secured and unsecured claims possible?

**Regular insolvency proceedings**

Yes

**Insolvency plan/protective shield**

Yes

**Restructuring regime under StaRUG**

Yes

## Are the claims of creditors and shareholders put into separate classes for purposes of voting and treatment under the plan or scheme?

**Regular insolvency proceedings**

Yes

**Classes:** (1) secured creditors; (2) unsecured creditors; (3) subordinated creditors (may be subclassed); and (4) shareholders

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

**Restructuring regime under StaRUG**

Same as in regular insolvency proceedings

## Is shareholder approval needed to commence a case? Are shareholders entitled to vote on a plan?

**Regular insolvency proceedings**

N/A

**Insolvency plan/protective shield**

Yes, as far as they are affected by the insolvency plan.

**Restructuring regime under StaRUG**

**Restructuring plan:**

Yes, as far as they are affected by the restructuring plan.

## Is there an ability to bind minority dissenting creditors (i.e., cramdown)?

**Regular insolvency proceedings**

Yes. Dissenting creditors are bound if required creditor approvals/majorities within the creditor committee and/or creditor assembly are obtained.

**Insolvency plan/protective shield**

Yes

Majority decisions within a class of creditors are possible (intragroup).

Further, there is the possibility of majority decisions between different classes of creditors (intergroup), so-called "cross-class cramdown." Dissenting creditors may be "crammed down" if (1) their position under the insolvency plan is not expected to be worse than in regular insolvency proceedings, (2) they will receive an adequate return from the assets and (3) a majority of the classes have approved the plan.

Subordinated creditors do not usually form a creditor class, do not vote on the insolvency plan and may suffer a 100% write-down.

**Restructuring regime under StaRUG**

**Restructuring plan:**

Yes, if the restructuring plan is court-approved.

75% majority decisions within a class of creditors are possible (intragroup).

Further, there is a possibility of simple majority decisions between different classes of creditors (intergroup), so-called "cross-class cramdown," if (1) the creditors' position under the restructuring plan is not expected to be worse than without a restructuring plan, (2) the creditors will receive an adequate return from the assets (plan value) and (3) a simple majority of the classes have approved the plan.

The consenting groups must not be formed exclusively by shareholders or subordinated restructuring creditors.

If a restructuring plan is not court-approved, the binding effect is only on consenting creditors.

**Moderation settlement:**

Even if court-approved, it is only binding on consenting creditors (inter partes).

# Commencing the Process

## Who can commence?

**Regular insolvency proceedings**

(1) The debtor or (2) any creditor(s), if the debtor is illiquid/overindebted

**Insolvency plan/protective shield**

**Protective shield:** the debtor

**Insolvency plan:** (1) The debtor, (2) the insolvency administrator/custodian or (3) the creditors' meeting/assembly may commission the insolvency administrator to propose an insolvency plan.

**Restructuring regime under StaRUG**

**Restructuring framework/restructuring moderation:**

The debtor

## Is shareholder's consent required to commence proceeding?

**Regular insolvency proceedings**

No shareholder consent is required if filing for insolvency is mandatory, i.e., in case of illiquidity/overindebtedness. If filing is not mandatory (i.e., in case of imminent illiquidity), shareholder consent is generally required.

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

**Restructuring regime under StaRUG**

**Restructuring framework**: Shareholder consent is likely required.

**Restructuring moderation**: Shareholder consent is less likely required.

## Is there an ability to consolidate group estates?

**Regular insolvency proceedings**

There is no possibility to consolidate group estates. Practically, it is possible to coordinate group insolvencies by appointing the same insolvency administrator(s) or, if there are several insolvency administrators for the different proceedings, by appointing a separate insolvency coordinator. Further, it is possible to concentrate insolvency proceedings over group companies at the same insolvency court.

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

**Restructuring regime under StaRUG**

Similar to regular insolvency proceedings. There is no possibility to consolidate group estates.

Practically, it is possible to coordinate group restructurings by appointing the same restructuring professional (Restrukturierungsbeauftragter) or, in case of a restructuring moderation, by appointing the same restructuring moderator (Sanierungsmoderator). Further, it is possible to concentrate restructuring proceedings over group companies at the same restructuring court.

## Is there any court involvement?

**Regular insolvency proceedings**

There is limited court involvement. Proceedings are supervised by the insolvency court, which will include determining insolvency, initiating protective measures against the assets of the debtor, especially during the preliminary insolvency proceedings (e.g., stop any enforcement measures); and appointing an insolvency administrator/custodian.

**Insolvency plan/protective shield**

**Protective shield**: The insolvency court determines the period in which a draft insolvency plan must be prepared; appoints a preliminary insolvency custodian (for a maximum of three months); and may order protective measures (e.g., stop any enforcement measures).

**Insolvency plan**: The insolvency court supervises the process and confirms the insolvency plan.

The court has the right to a preliminary examination and can refuse to approve a proposed plan (on the basis of the plan's likelihood of success and feasibility) ex officio even before it is put up for voting by the creditor and/or shareholder groups.

If the court does not reject the proposed plan, it schedules a meeting for discussion and voting and submits the plan to the relevant parties (creditors' committee, works council, speakers' committee of the executive employees, debtor (if the plan is proposed by the administrator) and administrator (if the plan is proposed by the debtor)) for consideration and comment. If the plan is approved by the creditors and, as the case may be, the shareholders, the plan must be confirmed by the court.

**Restructuring regime under StaRUG**

Yes; however, the scope and intensity of court involvement depend on restructuring measures chosen by the debtor. The court is involved inter alia in the following cases:

In case the debtor applies for some or all of the optional instruments of the stabilization and restructuring framework (i.e., judicial plan approval procedure, a preliminary judicial examination of issues relevant to the confirmation of the restructuring plan (preliminary examination), stabilization order and judicial plan confirmation)

In case the debtor applies for an optional restructuring professional or restructuring moderator

In case the appointment of a restructuring professional is mandatory

In case of an appointment of a creditors' committee (Gläubigerbeirat)

The abolition of a restructuring plan monitoring

## Who manages the debtor?

**Regular insolvency proceedings**

An insolvency administrator usually runs the proceedings. However, the debtor may request that the management retains control of the debtor's assets and business under the supervision of a court-appointed insolvency custodian ("self-administration"); the court will approve this provided creditors' interests are not prejudiced. Certain actions may require the insolvency custodian's consent.

**Insolvency plan/protective shield**

**Protective shield:** Management retains control of the debtor's assets under the supervision of a court-appointed insolvency custodian; the court will approve this provided creditors' interests are not prejudiced. Certain actions may require the insolvency custodian's consent.

**Insolvency plan:** N/A

**Restructuring regime under StaRUG**

**Restructuring framework:**

Management retains control of the debtor's assets. However, in most cases of a mandatory appointment of restructuring professional by the restructuring court (i.e., in case of inclusion of consumer claims in the restructuring plan; general stabilization order; if it is foreseeable that the restructuring objective can only be achieved by way of a cross-class cramdown), the restructuring court may order restrictions, e.g.:

The restructuring court may authorize the restructuring officer to supervise the management of the business, to claim that incoming funds are to be accepted and that payments are effected by the restructuring professional only.

The court may request that the debtor notifies the restructuring professional of any payments and that payments outside the ordinary course of business can only be effected with the consent of the restructuring professional.

Furthermore, if the restructuring plan regulates all claims of all creditors, a creditors' committee (Gläubigerbeirat) may be appointed by the restructuring court. The creditors' committee has competencies similar to regular insolvency proceedings.

All restrictions set forth above do not restrict the management's power to represent the debtor towards third parties.

**Restructuring moderation:**

Management retains full control of the debtor's assets.

## What is level of disclosure of process to voting creditors?

**Regular insolvency proceedings**

Secured creditors and insolvency creditors can generally apply for insight into the insolvency court files.

**Insolvency plan/protective shield**

A summary of the proposed insolvency plan is generally provided to all parties whose rights are modified by the insolvency plan.

**Restructuring regime under StaRUG**

**Restructuring plan:**

The debtor's plan addressed to all parties affected by the plan must include (i) the complete restructuring plan together with annexes as well as (ii) a description of the costs of the restructuring proceedings already incurred and those still to be expected, including the remuneration of the restructuring professional.The plan offer must indicate with which claims or rights the respective plan affected party is included in the restructuring plan, to which groups the plan affected party is assigned, and which voting rights the claims and rights grant.

**Restructuring settlement:**

Full disclosure of the settlement plan

## What entities are excluded from customary insolvency or reorganisation proceedings, and what legislation applies to them?

**Regular insolvency proceedings**

In principle, customary insolvency proceedings may be commenced by or against any legal person, subject to the following exceptions:

Insolvency proceedings cannot be commenced against: (1) the Federal Republic of Germany or any of its states; or (2) public law institutions, public law corporations and public law foundations that are subject to state supervision.

Specific rules apply to credit institutions (see German Banking Act, KWG). Only the Federal Financial Supervisory Authority (BaFin) can apply for insolvency proceedings over the assets of a credit institution. The insolvency proceedings will generally progress in accordance with the provisions of the German Insolvency Code (InsO).

Specific rules also apply to insurance companies (see German Insurance Supervision Act, "VAG"). Instead of the company itself and/or any creditor, only the BaFin or the individual competent state authorities can apply for insolvency proceedings over the assets of an insurance company. The insolvency proceedings will generally progress in accordance with the provisions of the German Insolvency Code (InsO).

**Insolvency plan/protective shield**

All entities subject to customary insolvency proceedings may also be subject to protective shield proceedings/insolvency plans.

Regarding credit institutions and insurance companies, insolvency proceedings will generally progress in accordance with the provisions of the German Insolvency Code (InsO), which encompass the regular insolvency plan provisions.

**Restructuring regime under StaRUG**

**Restructuring framework/restructuring moderation:**

In principle, all entities subject to customary insolvency proceedings may also become subject to restructuring proceedings (including restructuring moderation). However, for natural persons, this only applies to the extent that they are entrepreneurially active.

Companies in the financial sector within the meaning of § 1 para. 19 German Banking Act are excluded.

## How long does it generally take for a creditor to commence the procedure?

**Regular insolvency proceedings**

There is no strict timeline. This will strongly depend on the facts of the individual case. A creditor can apply for the opening of insolvency proceedings over a debtor's assets. The creditor must substantiate that the debtor is illiquid or overindebted. Before initiating the insolvency proceedings, the insolvency court has to hear the debtor first. Should the insolvency court conclude that the creditor's application might not be justified, the creditor must be given the possibility to provide further information, which then takes further time depending on the case.

**Insolvency plan/protective shield**

N/A

**Restructuring regime under StaRUG**

N/A

# Effect of Process

## Does debtor remain in possession with continuation of incumbent management control?

**Regular insolvency proceedings**

Insolvency proceedings are usually run by an insolvency administrator. However, the debtor may request that the management retain control of the debtor's assets and business under the supervision of a court-appointed insolvency custodian ("self-administration"); the court will approve this provided creditors' interests are not prejudiced. Certain actions may require the insolvency custodian's consent.

Note: A creditors' committee may unanimously propose a specific administrator and the court may only refuse the appointment of such person if disqualified from office. At the first creditors' meeting/assembly, following the appointment of the insolvency administrator, the creditors may elect a different person to replace them.

**Insolvency plan/protective shield**

**Protective shield:** Control of the debtor's assets under the supervision of a court-appointed insolvency custodian. The court will approve this, provided creditors' interests are not prejudiced. Certain actions may require the insolvency custodian's consent.

**Insolvency plan:** An insolvency plan may be proposed and implemented irrespective of whether the insolvency proceedings are managed by the debtor or an insolvency administrator.

**Restructuring regime under StaRUG**

**Restructuring framework:**

Management retains control of the debtor's assets. However, in most cases of a mandatory appointment of restructuring professional by the restructuring court (i.e., in case of inclusion of consumer claims in the restructuring plan; general stabilization order; if it is foreseeable that the restructuring objective can only be achieved by way of a cross-class cram down), the restructuring court may order restrictions, e.g.:

The restructuring court may authorize the restructuring officer to supervise the management of the business, to claim that incoming funds are to be accepted and that payments are effected by the restructuring professional only.

The court may request that the debtor notifies the restructuring professional of any payments and that payments outside the ordinary course of business can only be effected with the consent of the restructuring professional.

Furthermore, if the restructuring plan shall regulate all claims of all creditors, a creditors' committee (Gläubigerbeirat) may be appointed by the restructuring court. The creditors' committee has competencies similar to regular insolvency proceedings.

All restrictions set forth above do not restrict the management's power to represent the debtor toward third parties.

**Restructuring moderation:**

Management retains full control of the debtor's assets.

## What is the stay/moratorium regime (if any)? Is the stay or moratorium worldwide?

**Regular insolvency proceedings**

No automatic stay, but the insolvency court is required to take all necessary measures to avoid any detrimental effects to the financial status and estate of the debtor (which may include an order for the stay of enforcement of secured rights). Such a moratorium would apply worldwide in respect to all assets of the debtor irrespective of where they are located, but it is a different question whether a local court would accept and enforce such a moratorium.

Upon the opening of regular insolvency proceedings, foreclosure and collection activities are or may be limited, and the enforcement of prefiling judgments is suspended.

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

**Restructuring regime under StaRUG**

No automatic stay/moratorium. Moratorium/stay is possible on the debtor's application relating to restructuring claims. Excluded claims are:

Claims of employees arising from or in connection with the employment relationship, including rights arising from commitments to occupational pension schemes

Claims to arise out of intentional torts

Fines, administrative fines and periodic penalty payments as well as such collateral consequences of a criminal offense or administrative offense that oblige a monetary payment

If the debtor is a natural person, claims and rights to separate satisfaction that have no connection with their business activity are also exempted.

In general, the stabilization order is issued if the restructuring plan submitted by the debtor is complete and conclusive and no circumstances are known indicating that:

The restructuring plan is based on inaccurate facts in material respects.

The restructuring is futile because there is no prospect that the restructuring plan would be accepted by the parties or confirmed by the court.

The debtor is not yet imminent illiquid.

A stabilization order is not necessary to achieve the restructuring objective.

Regarding the worldwide effect of the stay/moratorium, same as in regular insolvency proceedings applies.

## Is there a provision for debtor in possession or rescuer financing or superpriority or priming financing?

**Regular insolvency proceedings**

There is no special legal provision, but loans to the insolvency estate can have priority status if granted during preliminary proceedings with court approval or if granted following the opening of main insolvency proceedings.

**Insolvency plan/protective shield**

Yes, the insolvency plan may provide for new lenders to have priority over unsecured creditors.

**Restructuring regime under StaRUG**

The restructuring plan may include provisions for loans or other credits (including their collateralization) that are necessary to finance the restructuring on the basis of the restructuring plan. In consequence, in the case of a court-approved restructuring plan, new lenders can benefit from the "safe harbor" regarding clawback/avoidance provisions as well as lender liability. The Restructuring Plan can provide for a privileged ranking of the new financing.

## Can procedure be used to implement a debt-to-equity swap?

**Regular insolvency proceedings**

No

**Insolvency plan/protective shield**

Yes, in accordance with the terms of the insolvency plan and provided that the swapping creditor provides consent.

**Restructuring regime under StaRUG**

Yes, in accordance with the terms of the restructuring plan or the restructuring settlement agreement.

## Are third party releases available?

**Regular insolvency proceedings**

Yes

**Insolvency plan/protective shield**

Yes, this is available in accordance with the terms of the insolvency plan.

**Restructuring regime under StaRUG**

Yes, this is available in accordance with the terms of the restructuring plan or the restructuring settlement agreement.

## Are the proceedings recognised abroad?

**Regular insolvency proceedings**

Yes, in accordance with European Insolvency Regulation or other applicable conflicts of laws principles and/or treaties for other countries.

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

**Restructuring regime under StaRUG**

Yes, it is based on European Insolvency Regulation (if public process) and/or Brussels I Regulation (if nonpublic).

## Has the UNCITRAL Model Law been adopted?

**Regular insolvency proceedings**

No

**Insolvency plan/protective shield**

No

**Restructuring regime under StaRUG**

No

## Can a debtor continue to carry on business during insolvency proceedings?

**Regular insolvency proceedings**

Yes, if the insolvency administrator and/or creditor committee/assembly agrees and the continuation is not detrimental to the creditors.

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

**Restructuring regime under StaRUG**

In general, the commencement of restructuring proceedings does not restrict the debtor from continuing to carry on business during the restructuring proceedings. Any internal restrictions, e.g., by the restructuring professional or the creditors' committee, do not have any external effect and thus do not limit the management's power to continue the debtor's business.

# Other Factors

## Are there any wrongful or insolvent trading restrictions and what is the directors' liability?

**Regular insolvency proceedings**

Yes. Wrongful and/or insolvent trading restrictions apply.

**Who can be liable:** directors and de facto directors, and, in exceptional cases, shareholders or supervisory board members

**Civil liability:** late filing or payment after the company is deemed illiquid or overindebted; and for causing intentional damage contrary to public policy (e.g., where directors transfer assets upstream and as a result cause insolvency)

**Criminal liability:** fraud, breach of trust; for late or incorrect filing (punishable by imprisonment or a fine); and certain bankruptcy actions (e.g., setting aside or hiding assets), violation of bookkeeping duties, and fraudulent actions to prefer certain creditors or the debtor

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

**Restructuring regime under StaRUG**

Same as in regular insolvency proceedings; however, certain modifications apply during restructuring proceedings [89 StaRUG].

## What is the order of priority of claims?

**Regular insolvency proceedings**

**Statutory order of priority:**

(1) Segregation rights (e.g., simple title retention)

(2) Secured creditors, especially right of separation

(3) Preferred claims of estate creditors (costs of the proceedings, certain tax claims triggered from the time of filing to the opening of the proceeding, and creditors' claims arising after the declaration of insolvency)

(4) Unsecured claims

(5) Subordinated claims (intragroup loans, fines, interest)

(6) Equity

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

**Restructuring regime under StaRUG**

Same as in insolvency proceedings, since the insolvency ranking needs to be reflected for the plan to pass the relevant comparison tests, which apply if challenged.

## Do pension liabilities have any priority over other unsecured claims?

**Regular insolvency proceedings**

Company pension schemes are secured by the pension security association (Pensions-Sicherungs-Verein (PSV)) and, potentially, by other security arrangements. These arrangements are not affected by insolvency proceedings.

The pension liability usually transfers to the PSV. Thus, the debtor has no direct liability to employees. Employees submit claims to the PSV and, if payments are made, the PSV claims against the debtor as an unsecured creditor. However, if the pension claim arises after the insolvency proceedings are opened, they are "preferred" claims that rank above unsecured claims in any distribution.

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

**Restructuring regime under StaRUG**

The claims of employees arising out of or in connection with the employment relationship (including pension liabilities) cannot be included in the restructuring plan.

## Is it possible to challenge prior transactions?

**Regular insolvency proceedings**

Yes

**Relevant period:** Three months prior to the filing of the insolvency petition. This period can be extended up to 10 years where there is an intention to prejudice creditors.

**Requirements:** Any legal acts or transactions (e.g., contracts and transfers of assets) may be subject to a clawback if (1) they are detrimental to the insolvency estate; (2) they put insolvency creditors at a disadvantage; and (3) any additional requirements of the relevant clawback provisions/action (e.g., as to the financial condition of the debtor and/or the parties' intentions at the time the legal act or transaction took place) are met.

[COVInsAG beachten]

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

[COVInsAG beachten]

**Restructuring regime under StaRUG**

No

With respect to insolvency clawback, in subsequent insolvency (i.e., if the restructuring fails), the law provides for a "safe harbor" (89,90 StaRUG).

## Is state support for distressed businesses available?

**Regular insolvency proceedings**

The Federal Agency for Employment will pay employees' salaries for three months — commonly starting with the application of the insolvency proceedings and ending when the court opens the main insolvency proceedings.

**Insolvency plan/protective shield**

Same as in regular insolvency proceedings

**Restructuring regime under StaRUG**

N/A

©Copyright © 2024 Baker & McKenzie. All rights reserved. **Ownership**: This documentation and content (Content) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms). The Content is protected under international copyright conventions. Use of this Content does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion**: All Content is for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulations and practice are subject to change. The Content is not offered as legal or professional advice for any specific matter. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any Content. Baker McKenzie and the editors and the contributing authors do not guarantee the accuracy of the Content and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the Content. The Content may contain links to external websites and external websites may link to the Content. Baker McKenzie is not responsible for the content or operation of any such external sites and disclaims all liability, howsoever occurring, in respect of the content or operation of any such external websites. **Attorney Advertising**: This Content may qualify as “Attorney Advertising” requiring notice in some jurisdictions. To the extent that this Content may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. **Reproduction**: Reproduction or copying of the Content on this Site without express written authorization is strictly prohibited.