Insolvency Plan Procedure

Structure of the procedure (sec. 217 et seq. InsO

Preparation of the insolvency plan (sec. 218 InsO) in view of the objectives
a) reorganisation by the debtor
b) reorganisation by transfer
c) liquidation

Plan can be submitted by (sec. 218 InsO)
- the administrator
  - own initiative
  - on instruction by creditors' meeting (sec. 157 sent. 2 InsO)
- the debtor

Components of the plan (sec. 219 InsO
- Declaratory part (sec. 220 InsO)
  - Possibility of altering intra-group third-party collateral
- Constructive part (sec. 221 InsO)
  - e.g.: possibility of conversion of debt to equity without shareholder consent
- Attachments (sec. 229 et seq. InsO)

Preliminary examination of plan by insolvency court (sec. 231 InsO) (Decision required within two weeks of submission of plan.)

Court's powers of review
- Plan submitted by administrator
  - Compliance with submission requirements
  - Compliance with requirements re content
- Plan submitted by debtor
  - Plan practicable
  - Claims satisfiable
  - Repeated submission of plan
  - Compliance with submission requirements
  - Compliance with requirements re content

Possible decisions (sec. 231 et seq. InsO)
- Final rejection
  - Remedy: immediate appeal by submitting party (sec. 231 (3) InsO)
- Preliminary rejection
- Approval (sec. 232 et seq. InsO)
  - Forward for comments (sec. 232 InsO)
  - Decision on stay of realisation and distribution (sec. 233 InsO)
  - Deposit in court registry (sec. 234 InsO)
  - Schedule discussion and voting meeting (sec. 235 (1) InsO)

Discussion and voting meeting (sec. 235 et seq. InsO)

Discussion part (sec. 235 (1) 1st clause, 1st half-sentence InsO)
- Introduction by proponent of plan
- Discussion, comments, opinions

Voting part (sec. 235 (1) 1st clause, 2nd half-sentence InsO)
- Determine voting rights of parties (sec. 237 et seq. InsO)
- Voting in groups (sec. 243 et seq. InsO)

Confirmation by insolvency court (sec. 248 et seq. InsO)

Hearing by court (sec. 248 et seq. InsO)

Checks (sec. 245 et seq. InsO)
- Check on majorities (sec. 244 InsO)
- Check on prohibition of obstruction (sec. 245, sec. 245a InsO)
- Check on approval (sec. 246 et seq. InsO)
- Check on procedural provisions (sec. 250 et seq. InsO)
- On application by a creditor (sec. 251 InsO)

Possible decisions and publication of decision (sec. 252 InsO)
- Confirmation
  - Insolvency proceedings terminated once insolvency plan is final
  - Remedy: immediate appeal (sec. 253 InsO)
- Confirmation denied
  - Remedy: immediate appeal (sec. 253 InsO)

Appeal may be refused immediately on application by the insolvency administrator if entry into effect of insolvency plan appears to deserve priority, sec. 253 (4) InsO.

Termination of insolvency proceedings (sec. 258 et seq. InsO)

Publication (sec. 258 (3) InsO)

Effects of termination (sec. 259 InsO)

Protection from enforcement and limitation period (ss. 259a and b InsO)

Effects of the plan (sec. 235 et seq. InsO)

Of the constructive part (sec. 254 et seq. InsO)

Satisfaction of creditors (sec. 257 InsO)

Monitoring of plan implementation (sec. 260 et seq. InsO)

Purpose

Object (sec. 260 InsO)

- by the insolvency administrator (sec. 261 et seq. InsO)
- by the supervisor (sec. 261 et seq. InsO)
- by any third party (sec. 261 et seq. InsO)
- Publication obligations of insolvency court
- Termination (sec. 268 InsO)

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