



TOB Circular No. 5: Restructuring exemption / restructuring plan of the target company

of 2 September 2020

Pursuant to Art. 136(1) FMIA, the Swiss Takeover Board may grant exemptions from the obligation to make an offer in justified cases, in particular if the equity securities are acquired for restructuring purposes (letter e). In order to be able to verify whether the conditions for granting a restructuring exemption are met, the target company must submit a restructuring plan to the Takeover Board, which must include, among other things, the following information:

[1]

1. Description of the situation

The financial situation of the target company must be described (in particular, information on the company's own funds, level of debt; is there any existing or is there a risk of future negative net worth, over-indebtedness or insolvency?) and the reasons for this must be explained.

[2]

2. Identification of a need for restructuring / liquidity planning

The extent of the need for restructuring must be described and justified in quantitative terms. Information on the urgency must be provided together with a liquidity forecast for at least the next six months.

[3]

3. Explanation of the chosen measure

The details of the chosen restructuring measure and the planned capital increase must be explained.

[4]

4. Description of alternative measures considered

An explanation must be given as to which measures were considered and rejected as alternatives to the chosen restructuring plan or carried out without success. The reasons for this need to be explained. Reasons must also be given in the event that there are no alternative measures.

[5]

5. Effective date

This Circular shall apply from 1 October 2020.

[6]