

## Covenants und Insolvenz

Risiken covenant-gesicherter Kreditgeber im Falle der Insolvenz des Kreditnehmers

Covenants sind Nebenabreden in Kreditverträgen, durch die sich Kreditgeber ihr Kreditausfallrisiko absichern lassen. Im Gegensatz zu herkömmlichen Kreditsicherheiten entfalten Covenants präventive Wirkung, indem Kreditgeber hierdurch einen umfassenden Einblick in das wirtschaftliche Geschehen beim Kreditnehmer sowie die Möglichkeit der Einflussnahme erhalten. Mittels Covenants können sich Kreditgeber daher nicht nur einen erheblichen Informationsvorsprung verschaffen, sondern auch eine Steuerungsfunktion beim Kreditgeber übernehmen. Das vorliegende Werk untersucht für den Fall der Insolvenz des Kreditnehmers, welche Auswirkungen Covenants auf die Stellung des Kreditgebers und dessen Kreditforderung hat. Darüber hinaus wird der Frage nachgegangen, ob dem Kreditgeber hierdurch bestimmte Pflichten erwachsen und Haftungs- bzw. Anfechtungsrisiken drohen.

The insolvency law is one of the core components of the comprehensive body of legislation that ensures the confidence of the legal community in a legal system. It regulates the conditions of widespread debtor liability and at the same time defines the framework within which creditors can expect their rights to be preserved through a reorganization and recapitalization of the indebted company. The actual effect of the insolvency law does not end at a country's borders. Insolvency proceedings are structured according to the right to have universally applicable validity. Joint legislation on cross-border insolvency proceedings is now in effect in the form of intrastate legislation in almost all member states of the European Union. This shared European legislation is impacting intrastate reform processes and influencing the insolvency legislation. Furthermore, the intrastate legislation is being influenced by the UNCITRAL-Model law. Academic debate is increasingly concerned with the convergence movement that has been triggered as a result. Practical applications require legal dogmatic clarification of the increasingly complex regulations of insolvency legislation, and information on structures and problems of foreign European and extra-European insolvency laws, as well as and in particular with regard to its interaction with German laws. The DZWIR publication series is a forum of these discussions. It is being published as a series of monographic examinations of fundamental questions on German, European and international insolvency legislation. As such, this series contributes to the legal dogmatic clarification of disputes as well as to the promotion of European integration of national insolvency legislation.

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