



DEAL REPORT

Hengeler Mueller Wins Federal Court Case on Permissibility of Intra-group Upstream Loans

In a December 2008-judgement, the German Federal Court of Justice (Bundesgerichtshof — BGH) developed new principles applicable to unsecured loans within a group of stock corporations. The BGH found unsecured upstream loans between group members acceptable where full value is attached to the repayment claim at the time the loan is granted. In the same ruling, the court expressly reversed its “November judgement” -, a conflicting decision from 2003. The BGH’s most recent judgement, due to be published in the court’s official register, also contains important observations on other significant matters of German stock corporate law.

The Hengeler Mueller team included partner Burkhardt Meister and associate Lars Ferenc Freytag (both Frankfurt). Reiner Hall (Jordan & Hall, Karlsruhe) led the proceedings before the BGH.

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