

## **Heta Asset Resolution AG:**

Equity Substitution Act (EKEG) proceedings: Heta files an appeal  
Klagenfurt am Wörthersee, 8th May 2015

The Regional Court of Munich I (Landgericht München I) today, on 8th May 2015, has announced its decision in the legal dispute between Heta Asset Resolution AG (Heta) and Bayerische Landesbank (BayernLB) and has accepted the legal arguments of BayernLB. The ruling is not final. Heta will file an appeal against it with the Supreme Regional Court of Munich (OLG München).

Heta takes the view that both the expert Professor Peter Mülbert, Mainz, as well as the Senate chaired by judge Dr. Gesa Lutz have failed to adequately consider essential parts of its arguments in the dispute surrounding the applicability of the Equity Substitution Act.

The Heta CEO Sebastian Prince of Schoenaich-Carolath comments, "Heta must comply with Austrian law. According to the expert reports commissioned by us the funds provided must be qualified as equity substitution as defined by the Austrian Equity Substitution Act. We are fully convinced that Heta absolutely complies with the law and that both the expert report produced by the German Professor Peter Mülbert, Mainz, as well as the court judgment fail to correctly analyse the legal situation in Austria."

Heta will hence maintain its generally known position: the repayment ban for BayernLB loans will only be lifted if Heta is financially sound again. Heta also has reimbursement claims against BayernLB for payments already made. At a current disputed value of EUR 4.8 billion euro Heta's counterclaims far exceed the demands of BayernLB.

The Mülbert report which the Court uses as basis for its findings focuses on the requirement of a „subjective knowledge“ of the existence of a “crisis” as defined by equity substitution law. To date no other decision or published legal opinion has ever taken this view. According to the specialised literature and renowned Austrian legal experts the legal consequences of the equity substitution law (repayment ban, reimbursement claims) can rightfully only be triggered by objective criteria. In his report Mülbert thus contradicts all legal opinions published in Austria to date which is why Heta cannot understand the court's decision.

Schoenaich-Carolath in conclusion: „We regard the Senate's decision of today only as an interim step towards a final legal clarification. Heta sees no reason why it should abandon its legal position. It now befalls on the Supreme Regional Court of Munich to duly weigh all arguments brought according to Austrian law.”

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