

**German ministers seek to inflict pesticide on financial “locusts”
- new bill will hit banks, private equity and hedge funds**

Hedge funds and other financial institutions will find it much harder to invest in German distressed debt, following the recent publication of a bill by Germany’s Ministry of Justice to limit the trading of debt, warns leading German lawyers Schultze & Braun.

Schultze & Braun is warning its financial institution clients that the new Risk Limitation Bill (*Gesetz zur Begrenzung der mit Finanzinvestitionen verbundenen Risiken (Risikobegrenzungsgesetz)*) is a clear protectionist move that builds on past government hostility towards private equity and hedge funds investors, particularly those based in London and New York.

Under the proposed legislation, borrowers will have the option to inhibit investors purchasing their debt through opting for a non-assignable loan at the time of concluding the loan agreement. The result will be less debt available to trade. There will also be a duty to inform borrowers if their loan has been assigned to an investor, coupled with the redress of damages if the lender compulsorily enforces repayment before defaults actually occur regardless of any negligence.

Annerose Tashiro, a specialist cross-border restructuring lawyer at Schultze & Braun, said: “The German Ministry of Justice has adopted the attitude of the previous Vice Chancellor, Franz Munteering, who famously labelled hedge funds and private equity businesses as “locusts” in 2005. The result should these proposals be introduced, which is certainly the Minister of Justice’s intent, will result in less debt available to trade coupled with more onerous obligations, a clear loss for hedge funds who have been profiting from trading distressed debt.

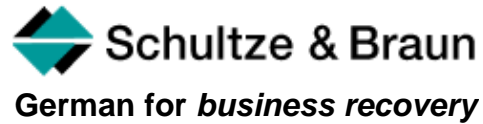
“These new laws will make Germany a much more restrictive legal regime for institutions trading distressed debt, although it will continue to be possible albeit with some potentially onerous new requirements.

“Last year there was an estimated Euro 10 to 15 billion (depending on the study) of distressed debt traded in German companies, amongst the highest in Europe. I would expect these laws to make some distressed debt investors to start looking elsewhere, while those active in the market will need to make sure they comply with the new measures.”

Annerose Tashiro added: “Of course, such legislation will hurt more than the so-called locusts. In fact, big losers will also be banks operating in Germany and also German businesses looking for loans. The legislation will mean banks will find it harder to sell on debts, making lending to businesses a riskier proposition than before. This will in turn make them less willing to lend to businesses without strong collateral to protect them against any default”.

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News release



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Notes for editors:

Schultze & Braun is Germany's leading business recovery and insolvency law practice covering over one third of all of Germany's 183 Insolvency Courts (unmatched by any other law firm). Founded over 50 years ago in Achern, Germany, Schultze & Braun now employs over 500 employees: attorneys, tax advisors and auditors provide a range of legal and financial advisory services to clients throughout Europe and also in America.

In the UK it particularly advises financial institutions and their UK legal teams on all matters related to business recovery, distressed debt and corporate insolvency matters in Germany.