

99066009024000, 99066009024000

Resolution on an insolvency plan

Heruntergeladen am 01.07.2025

<https://fimportal.de/xzufi-services/439222041/L100040>

Modul	Sachverhalt
Leistungsschlüssel	99066009024000, 99066009024000
Leistungsbezeichnung I	Resolution on an insolvency plan
Leistungsbezeichnung II	
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Niedersachsen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Insolvenz (066)
Verrichtungskennung	Beschluss (024)
SDG-Informationsbereich	Insolvenzverfahren und Liquidation von Unternehmen
Lagen Portalverbund	Sanierung und Insolvenz (2160300)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	01.11.2021

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Fachlich freigegeben durch	Lower Saxony Ministry of Justice
Handlungsgrundlage	https://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG036200000 https://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG036200000
Teaser	The insolvency court checks whether the rules on the submission and content of the insolvency plan have been complied with. If this is the case and the necessary majorities in the creditors' meeting agree, this is confirmed by the insolvency court.
Volltext	<p>Both the insolvency administrator and the debtor are entitled to submit an insolvency plan to the insolvency court (see also the text "insolvency plan" or insolvency plan as a restructuring instrument).</p> <p>After a corresponding submission, the insolvency court examines the insolvency plan. The insolvency court rejects the submitted insolvency plan ex officio (i.e. on its own initiative) if, inter alia,</p> <ul style="list-style-type: none"> • the provisions on the right to submit and the content of the plan, in particular on the formation of groups (including the division of the parties according to their legal status, e.g. general and subordinated insolvency creditors) have not been complied with and the referring party is unable to remedy the deficiency or remedy it within a reasonable period set by the court, • a plan submitted by the debtor clearly has no prospect of acceptance by the parties or confirmation by the court, and/or • the satisfaction of the parties provided for in the plan submitted by the debtor is manifestly not possible. <p>If the court does not reject the plan, it seeks comments from certain parties to the proceedings (including creditors' committee, works council, insolvency debtor or insolvency administrator).</p> <p>The insolvency plan, together with annexes and statements, is made available to the parties to the proceedings at the registry of the insolvency court.</p>

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In a discussion and coordination meeting determined by the insolvency court, the submitted insolvency plan and the voting rights of the parties involved are then discussed and voted on the adoption of the plan. Each group of voting parties votes separately on the insolvency plan, whereby it is possible to carry out the vote in writing if the voting date is not combined with the date for discussion of the plan.

In order to adopt the plan, it is necessary that the majority of the voters in each group approve the plan (head majority) and that the sum of the claims of the affirmators amounts to more than half of the sum of the voters' claims (total majority).

After the parties have accepted the plan, the insolvency court must confirm it. The insolvency court must refuse to certify ex officio (i.e. on its own initiative) if:

- the rules on the content and procedural treatment of the insolvency plan, as well as on the acceptance by the parties and the consent of the debtor, have not complied with a material point, and
- the defect cannot be remedied or
- the adoption of the plan has been brought about unfairly, in particular by favouring one of the parties.

At the request of a creditor or a person involved in the debtor, confirmation of the insolvency plan may also be refused by the court if the applicant objects to the plan at the latest at the voting date and credibly demonstrates that the plan puts him or her in a worse position than without a plan.

With the legal force of the confirmation of the plan, the effects laid down in the design part for and against all parties involved – including insolvency creditors who have not lodged their claims or parties who have objected to the plan – apply.

The insolvency creditors can pursue enforcement against the debtor from the legally confirmed insolvency plan in conjunction with the entry in the table as from an enforceable judgment.

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Erforderliche Unterlagen

- Insolvency plan
- Necessary plan investments within the meaning of §§ 229 et seq. InsO, such as in the event that the payments to the insolvency creditors are to come from the income of the continuing operation:
 - balance sheet (§ 229 InsO),
 - income-expenditure forecast for the plan period,
 - if necessary, a declaration by the debtor of the debtor or the general partner that they are prepared to continue the business on the basis of the plan (Section 230(1) InsO),
 - affirmative declarations by creditors who wish to take over share or membership rights or shareholdings in a legal person (Section 230(2) InsO),
 - where applicable, a declaration by a third party who, in the event of confirmation of the plan, has assumed the assumption of obligations towards the creditors

Voraussetzungen

- (this one) Application for the opening of insolvency proceedings
- Insolvency plan, consisting of a representational and a formative part, as well as the necessary annexes to the insolvency plan
- Submission of the insolvency plan by an authorised person (insolvency administrator, insolvency debtor)
- Compliance with the legal requirements regarding the content of the insolvency plan, in particular the proper formation of groups in the insolvency plan

Kosten

A 0.5 fee pursuant to No. 2310 KV GKG is payable for the proceedings on the debtor's application for the opening of insolvency proceedings. The value of the insolvency estate at the time of the closure of the insolvency proceedings is decisive for the calculation of the actual amount incurred (§ 58 para. 1 sentence 1 InsO).

Verfahrensablauf

- The insolvency debtor or the insolvency administrator writes an insolvency plan including the necessary annexes (see text "insolvency plan" or insolvency plan as a restructuring instrument).
- The drawn up insolvency plan must be submitted to the competent insolvency court together with the complete annexes. The insolvency court then examines the documents submitted, in particular whether the

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provisions on the right to submit and the content of the plan have been complied with.

- If the result of the examination is positive for the submitter, the insolvency court usually sets a discussion and voting date in which, after the discussion, the entitled parties vote on the insolvency plan.
- If the necessary majorities are reached, the insolvency court shall give the insolvency debtor .dem and the creditors' committee, if appointed, the opportunity to comment. Finally, the court – if the conditions are met – confirms the insolvency plan.

Bearbeitungsdauer
Frist

Submission of the insolvency plan: at the latest by the closing date

weiterführende Informationen
Hinweise
Rechtsbehelf

The referring party has the right to lodge an immediate appeal against the decision of the insolvency court rejecting the insolvency plan. The referring party has the right to lodge an immediate appeal against the decision of the insolvency court rejecting the insolvency plan.

<https://dejure.org/gesetze/InsO/231.html>
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Kurztext

- Insolvency Plan Decision
- Judicial review of whether the rules on the submission and content of the insolvency plan have been complied with
- Judicial confirmation of the insolvency plan

Ansprechpunkt

The locally competent insolvency court.

The insolvency court in whose district the debtor has his general place of jurisdiction has exclusive territorial jurisdiction.

If the centre of an independent economic activity of the debtor is located elsewhere, the insolvency court in

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	<p>whose district that place is situated shall have exclusive jurisdiction.</p> <p>The competent court can be found here.</p>
Zuständige Stelle	
Formulare	
Ursprungsportal	Resolution on an insolvency plan, Beschluss über einen Insolvenzplan