

Business Roundtable

For real estate asset and property managers

22 March 2012

Topics

- ❑ Introduction of DVORAK & SPOL.
- ❑ „De-leveraging“ (legal aspects)
- ❑ Tenant incentives
- ❑ Selected „current“ topics
 - Limitation of liability for damages
 - Over-indebtedness triggers insolvency

Introduction of DVORÁK & SPOL.

- ❑ Leading Czech law firm established in 2003
- ❑ Legal advisory in the area of
 - real estate
 - corporate and M&A
 - employment law
 - banking and finance
 - insolvency and restructuring
 - litigation
- ❑ Team of 17 legal professionals
- ❑ Close relationships with leading law firms in other CEE countries

Introduction of DVORÁK & SPOL.

- **International recognition.** Thanks to recommendations of our clients we have been repeatedly recommended by prestigious international publications:



De-leveraging

- Possible way – debt-to-equity swap
 - Increase in the registered capital
 - Contribution outside registered capital

De-leveraging

- ❑ **Debt-to-equity swap**
- ❑ **Alternative 1) Increase in the registered capital**
 - Administratively rather demanding process
 - Registration into the Commercial Register necessary
 - Existence of the receivable (debt) shall be evidenced by an auditor
 - Repayment possible only by way of decrease in the registered capital

De-leveraging

- ❑ **Debt-to-equity swap**
- ❑ **Alternative 2) Contribution (voluntary) outside registered capital (SRO/AS?)**
 - Expressly allowed only in case of SRO; applicability in case of AS likely possible
 - Administratively very simple process
 - No influence on the registered capital
 - Registration into the Commercial Register not necessary
 - Repayment possible (unless the company reports a loss)

Tenant incentives

- Recommendation (landlord)
 - Clear definition / precise adjustment to the current situation (primarily in case of fit-out contributions)
 - Rules regarding early termination
 - Rules regarding extension of the lease term

Tenant incentives

□ Case study

- Rent free period of 2 months (rent EUR 1) / service charges payable in full amount (provided at the beginning of the term / in steps)
- In case of an early termination (default on the side of tenant) – landlord may request increase of the rent to the full amount (plus potential other claims)
- In case of extension of the lease – new rent free (?)

Possibility to limit liability for damages

- Until 1.1.2012 no legal basis / possibility questionable
 - Very formal approach of Czech courts
 - Obstacle in a number of transactions since the risks related to potential damages very difficult to evaluate

Possibility to limit liability for damages

- Liability for damages may be limited for the future / waiver possible
 - **Recommendation:** Review your standard contract / your commercial terms / where there is a running long term contract, adjustment should be evaluated
- Why positive:
 - Better assessment of future financial risks / predictability

Over-indebtedness triggers insolvency

- ❑ Managers obliged to file an insolvency petition should the company be **over-indebtedness, i.e.** regardless whether the company is in delay with its payments or not
- ❑ Number of insolvencies will go up?
- ❑ Failure to comply – personal liability of managers

Contacts

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Thank you for your attention