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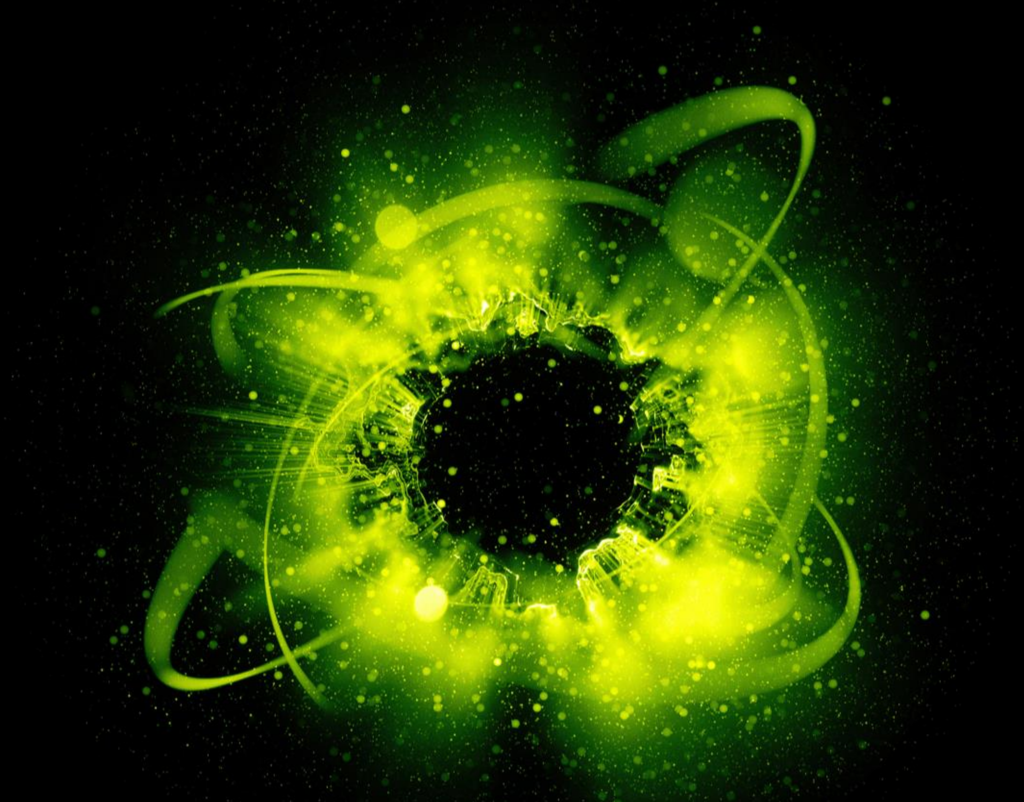

Distressed M&A - The Fine Art of the Bespoke Deal

Session III: Assets at a bargain price? - The right company valuation and purchase price determination

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Speakers

Session III

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Next module

Session III

Essentials, Approach and Due diligence

Options under labour law

Assets at a bargain price?
- the correct company valuation and purchase price determination

Agenda

Session III

I. Starting point

II. Distressed vs. Sunshine M&A

III. Transaction structures

IV. Purchase price determination in distressed M&A

V. Case Study

VI. Wrap-up: Challenges and success factors for a successful purchase out of insolvency

VII. Q&A

I. Starting point

Timeline

PHASE I

I. Creation
Insolvency application

2 - 3 weeks

Preparation of insolvency petition

PHASE II

II. introduction preliminary
Self-administration proceedings

2 - 3 months

Opening procedure

- Appointment of provisional Creditors' committee
- Appointment of a provisional custodian
- Provisional order Self-administration, § 270a InsO

PHASE III

III. opening of insolvency proceedings
proceedings [in self-administration]

3 - 5 months

IV. Report meeting; discussion and voting meeting

Insolvency proceedings opened

- Establishment of creditors' committee
- Appointment of a custodian
- M&A process / development of an insolvency plan

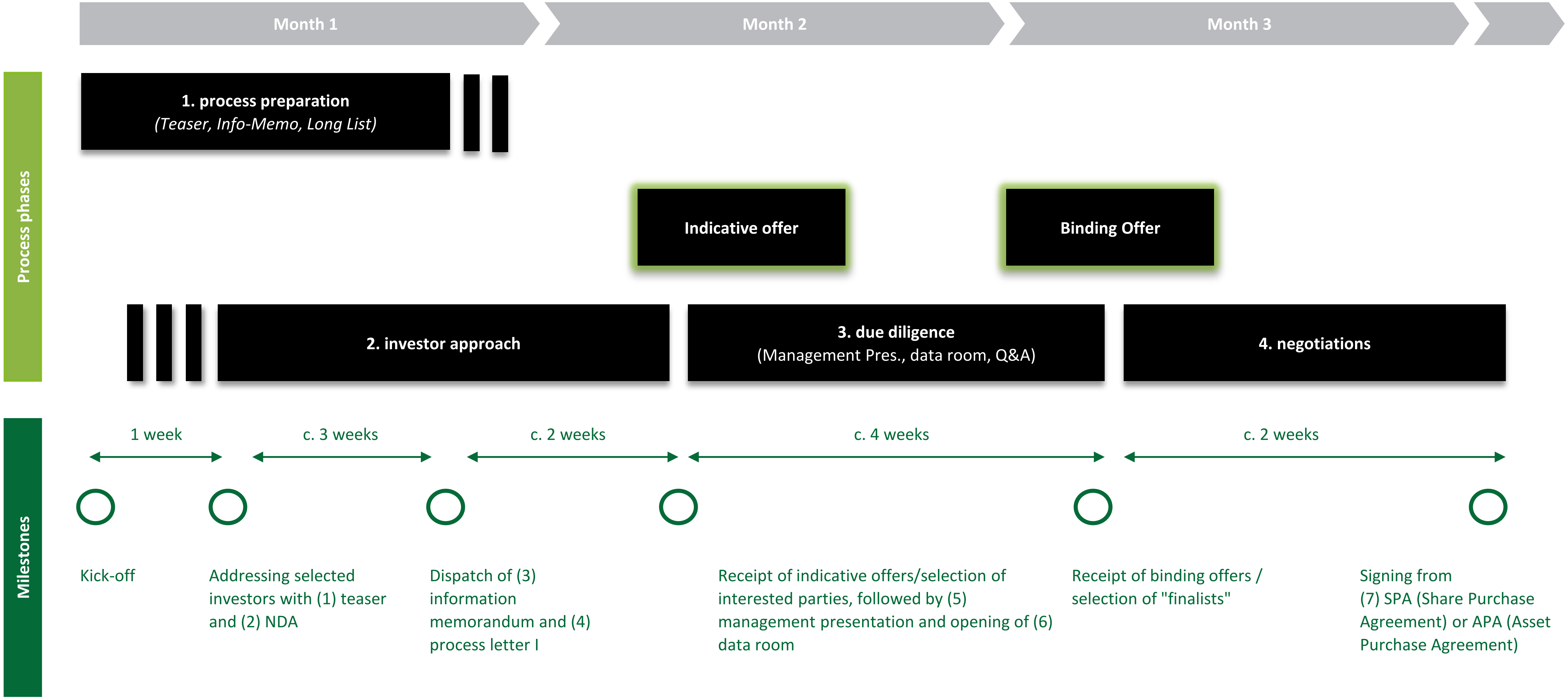
V. Transferring reorganisation or
Confirmation of insolvency plan and
Cancellation of insolvency proceedings

Short-term up to a few months

Transferred reorganisation / fulfilment of insolvency plan

Distressed M&A - Process structure

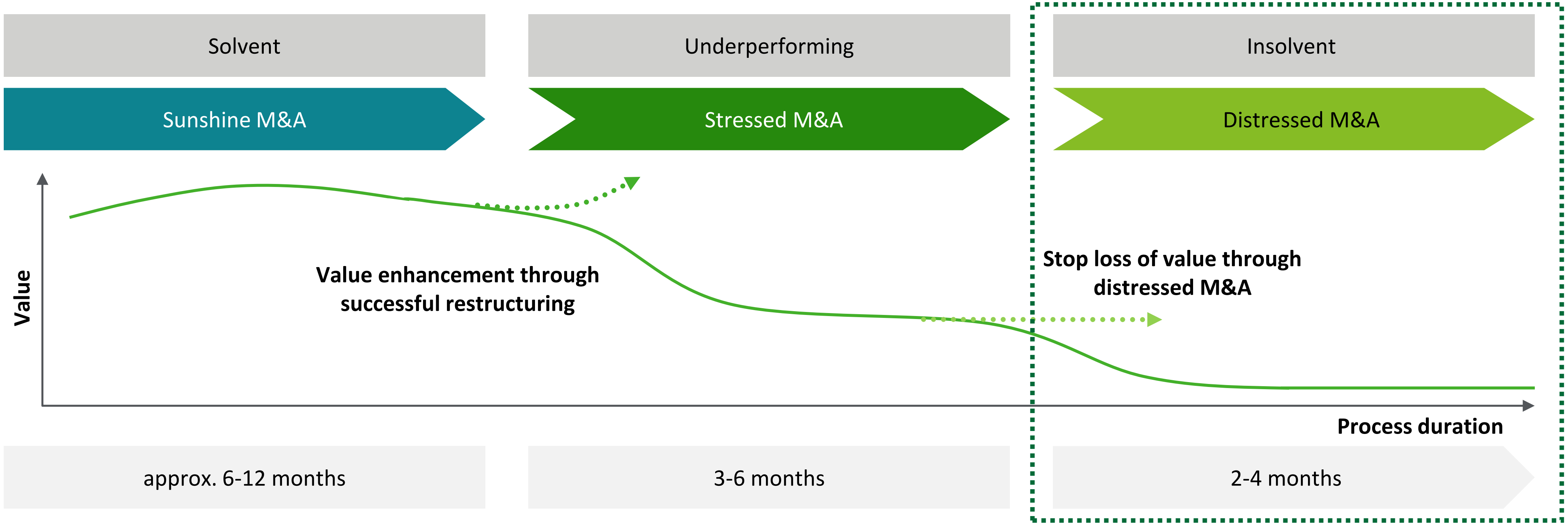
Sales processes from insolvency are extremely compressed and usually take no longer than 3-4 months



II Distressed vs. sunshine M&A

Distressed vs. Sunshine M&A

In the area of distressed M&A, speed and an efficiently structured M&A process play a decisive role in the successful completion of the transaction.



Special features of distressed M&A

- Short time frame
- Limited due diligence
- Necessity of involving third parties
- No comprehensive company valuation
- Special features under insolvency law

III Transaction structures

Transaction structures

The transferring reorganisation (asset deal) is the most common transaction structure in distressed M&A processes. However, a share deal may also be necessary in individual cases.

The choice of transaction form influences the way in which the purchase price is determined!

Transferred reorganisation (asset deal)
Sale of (partial) assets by way of an asset deal by selling assets. Liabilities remain in the insolvency estate.

Purchase of shares (share deal)
Prior to insolvency, the share deal has no influence on the valuation under insolvency law, as liabilities are also assumed. In insolvency, only possible as part of an insolvency plan.

Mixed forms
Mixed forms of share deal and asset deal are conceivable by founding rescue companies into which certain assets are transferred.

Cherry picking
Profitable divisions can be separated from unprofitable ones.

IV. Determining the purchase price in distressed M&A

Purchase price determination in distressed M&A

Special features of purchase price determination in distressed M&A processes.

Lack of predictability of future business activities, especially in insolvency proceedings.

Due to the **tight time frame**, a comprehensive company valuation is often not possible.

Liquidation and going concern values show (preliminary) insolvency administrators and creditors a possible range of values.

The purchase price determined **may not be** less than the forecast **liquidation value** of the company.

Procedure to the Determination of purchase price

Income-based methods (e.g. capitalised earnings value, DCF method) are not suitable for determining the purchase price due to the frequent lack of predictability and generally negative income forecasts in the event of insolvency/crisis.

Market value-oriented methods (e.g. multiplier method) are usually based on EBIT or EBITDA figures, which are generally negative in insolvency situations and are therefore not used.

Unlike in sunshine M&A processes, **asset-based proceedings** play a practical role in distressed M&A proceedings. In particular, the forecast liquidation value of the existing assets represents an important threshold for the (provisional) insolvency administrator and the creditors.

Purchase price determination in distressed M&A

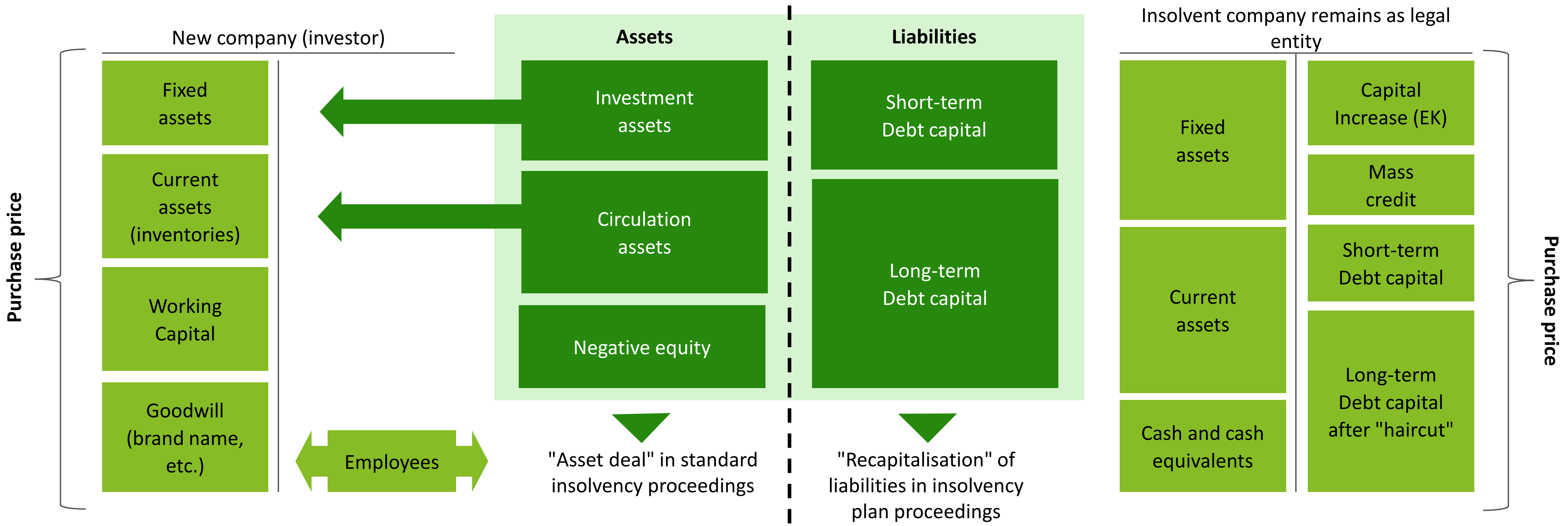
Purchase price determination in asset and share deals at a glance.

Transferred reorganisation (asset deal)

Net asset value or asset-based purchase price calculation.

Insolvency plan proceedings (share deal)

The "purchase price" is derived from the investor's contributions to the assets agreed as part of the insolvency plan.



Purchase price determination in distressed M&A

Determining the purchase price in an asset deal

Assets	Liabilities
Fixed assets	
1 Intangible assets	
2 Land and property	
3 Property, plant and equipment/BGA	
4 Financial assets	
5 Inventories/orders	
6 Receivables from L.u.L.	

Purchase price components:

A Determination of net asset value (KP is available to creditors)

1. Usually only of minor significance (e.g. purchase prices for brands, licences, customer data).
2. Land and business properties according to market value appraisals.
3. Movable tangible assets according to the inventory list of the expert appointed by the insolvency administrator.
4. For example, the acquisition of shares in subsidiaries.
5. Inventory assets (as at the transfer date/inventory) using a variable valuation scheme (usually devaluation taking into account the age structure and shelf life).
6. • If applicable, assumption of trade receivables, taking into account third-party rights and individual discounts (although this is unusual in practice).

B Financing component (KP is not available to creditors)

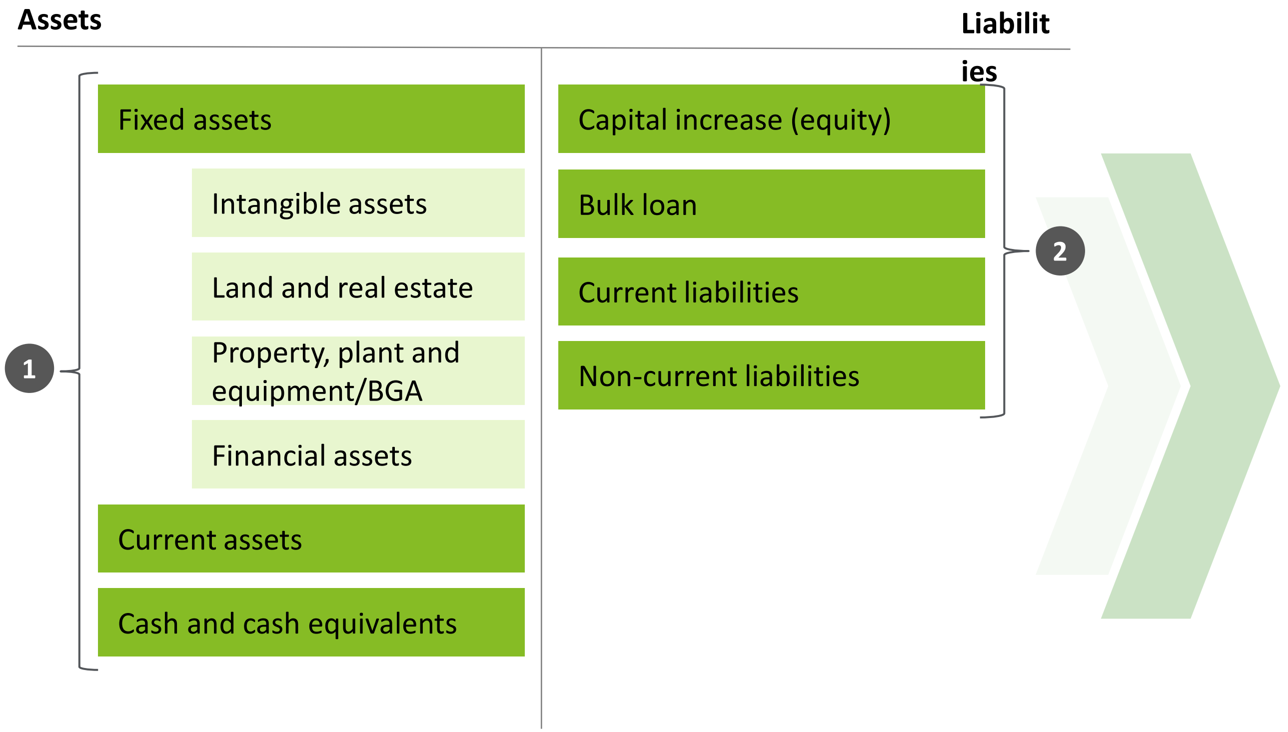
- In particular, if no old receivables and existing credit lines are taken over, it is necessary to build up working capital. The operational financing requirements must also be raised by the investor.

C Transaction component (KP is available to creditors)

- The aim is to create a competitive situation so that the initially determined purchase price is positively influenced by the bids of other interested parties (goodwill).

Purchase price determination in distressed M&A

Determining the purchase price in a share deal



The acquisition of company shares in the form of a share deal is only possible in insolvency situations as part of insolvency plan proceedings. The purchase price is derived from the investor's contributions to the assets agreed in the insolvency plan.

Possible purchase price components in the share deal:

1. Purchase price (usually determined on an asset basis): The insolvency plan can stipulate the payment of a purchase price for the acquired assets. However, this is not mandatory.
2. Possible contributions to the purchase price:

- Capital contribution/increase
- Shareholder loans
- Bulk loan
- Assumption of liabilities (after "haircut")

Transaction structure

Asset Deal

Transaction structure

OldCo balance sheet (before reorganisation by transfer)

Assets	Liabilities
Fixed assets	Equity capital
Intangible assets	
Property, plant and equipment/BGA	
Inventories/orders	
Receivables from L.u.L.	Provisions
	Liabilities

NewCo balance sheet (after reorganisation by transfer)

Assets	Liabilities
Fixed assets	Equity capital
Intangible assets	
Property, plant and equipment/BGA	
Inventories/orders	

Key points of the design (extract)

- **Acquisition** of (individual) **assets** required for operations
- **In the case of continuing obligations** (leasing, rental, etc.), there is the **possibility of a takeover** in agreement with the contractual partner.
- In principle, **no liabilities are assumed.**

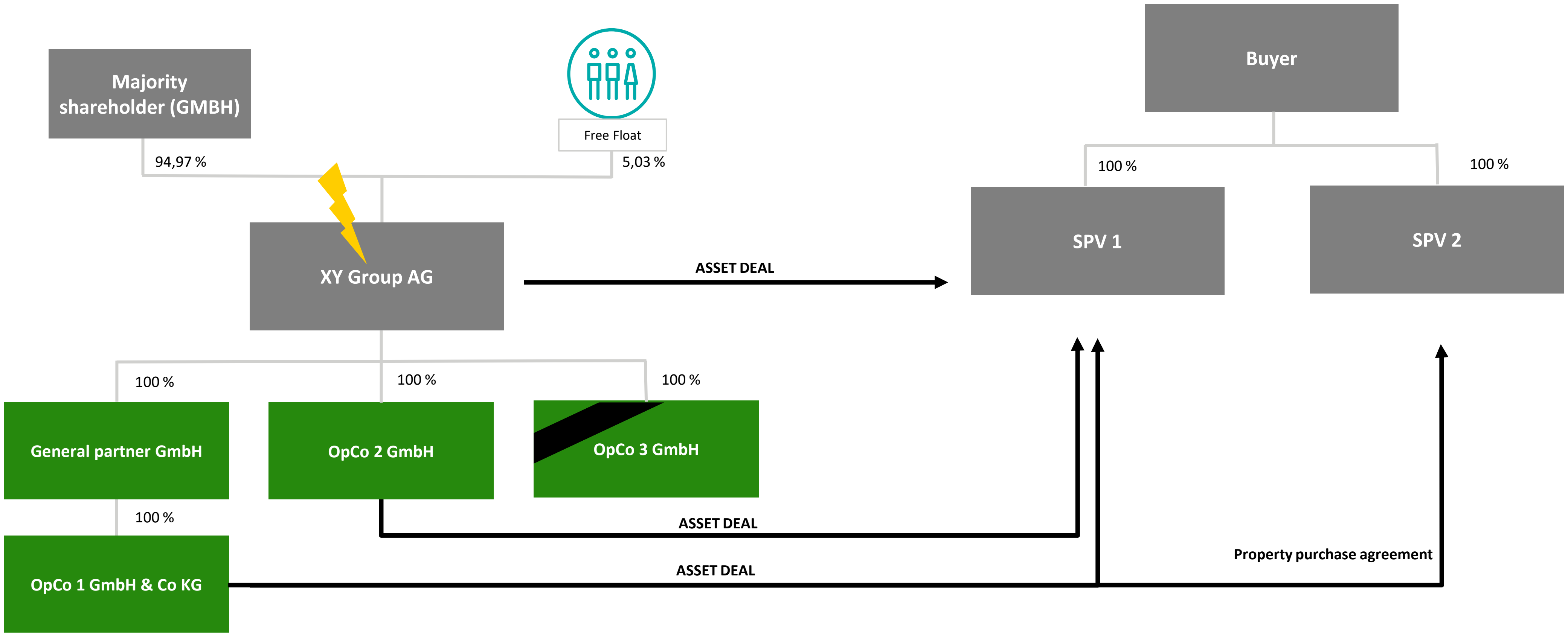
Requirements (extract)

- Preparation of an **offer** for the individual **assets**
- Presentation of a **takeover or continuation concept** by the investor
- Information on the planned **financing**

V. Case Study

Structure of the insolvent group

German tile manufacturer



VI Wrap-up: Challenges and success factors for a successful purchase out of insolvency

Challenges and success factors when buying a company out of insolvency

The challenges

Limited information available:
Due to the company's financial situation, comprehensive due diligence is often not possible. Financial forecasts are often uncertain and it is difficult to determine future cash flows.

High time pressure:
Distressed M&A deals often have to be completed in very short periods of time in order to stop the loss in value of the company and avoid liquidation.

Valuation uncertainties: Standard valuation methods such as the EBIT(DA) multiples method are often not applicable as the company's earning power is severely impaired. Instead, asset-based approaches such as determining the liquidation value play a greater role.

Regulatory and insolvency law requirements:
Distressed deals are often associated with specific insolvency law requirements that must be complied with, e.g. creditor protection and compliance with deadlines.

Success factors

Realistic company valuation:
A precise and realistic valuation of the asset values, in particular the liquidation value, is crucial in order to determine an appropriate purchase price.

Flexible transaction structures:
The use of creative transaction structures, such as a combination of asset and share deals, can ensure the success of the deal and maximise the value for all parties involved.

Strong negotiation skills:
Negotiations with creditors and insolvency administrators are a key to success. Strategic positioning and the creation of a competitive situation by several interested parties can have a positive influence on the purchase price.

Clear and fast decision-making processes:
An efficient and decisive decision-making process based on sound information makes it possible to finalise the deal within the often tight time frame.

Experienced deal partner:
The success of a distressed M&A deal depends largely on the experience and resources of the advisors involved. A strong network of legal, financial and restructuring experts is a decisive success factor.

VII Q&A

Thank you very much

for your attention

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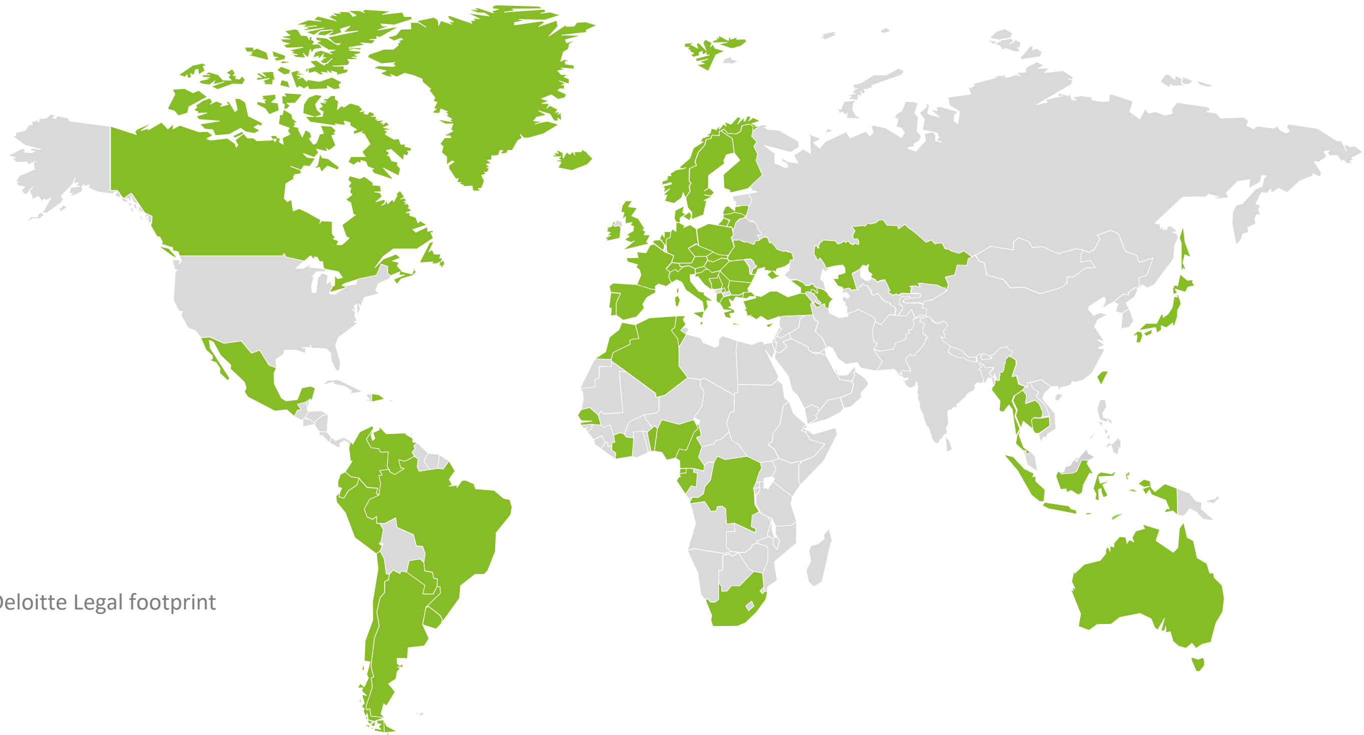

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