



# PIVOT TO RECOVERY™

THE SWISS DEBT RESTRUCTURING MORATORIUM:  
EVOLUTION OF THE NUMBER OF CASES IN 2019 – 2021



**ALVAREZ & MARSAL**  
LEADERSHIP. ACTION. RESULTS.™

# Introduction

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## Context

On a yearly basis, the Swiss Federal Statistical Office (FSO) collects statistics nationally on the number of debt enforcement actions and bankruptcies. Restructurings, or debt-restructuring moratorium procedures, as defined by the Swiss Debt Enforcement and Bankruptcy Act (DEBA), are however, not in the scope of FSO's statistics.

With the tool of a debt moratorium, a legal framework is provided to enable the successful implementation of restructuring measures.

Whilst various countries have amended their insolvency regimes in the last couple of years, the last significant revision of the Swiss debt-restructuring moratorium dates from 2014. Amongst the various measures to cope with the economic impact of COVID, minor adjustments were put into effect ahead of schedule (especially the extension of the provisional phase of a moratorium).

With its survey of Swiss debt-restructuring moratorium procedures, Alvarez & Marsal (A&M) provides an important discussion element to enable the further development of the Swiss restructuring procedure.

Comprehensive information on the Swiss debt restructuring moratorium process can be found in [our detailed compendium](#).

## Methodology

The data of the present study is based on the official publications in the Swiss Official Gazette of Commerce (SOGC) and is limited to legal entities (excluding sole proprietorships or private individuals). For the analysis of debt-restructuring moratorium procedures which were not made public, the authors have collected data directly from the Swiss local bankruptcy courts.

Of the 110 contacted district courts, 78 and 94 have responded in 2019 and 2020-21, respectively. This high response rate of 80% enables to robustly draw conclusions from the data. Furthermore, the data was discussed with the majority of administrators who were engaged in the analysed period.

The assignment of a debt-restructuring moratorium to a specific year was determined based on the first opening date of the provisional phase (for example, if the provisional phase was granted in 2019 and converted to a definitive composition moratorium in 2020, the case would be counted only in for 2019).



## In a nutshell

### The Swiss debt-restructuring moratorium remains a little-used restructuring instrument.

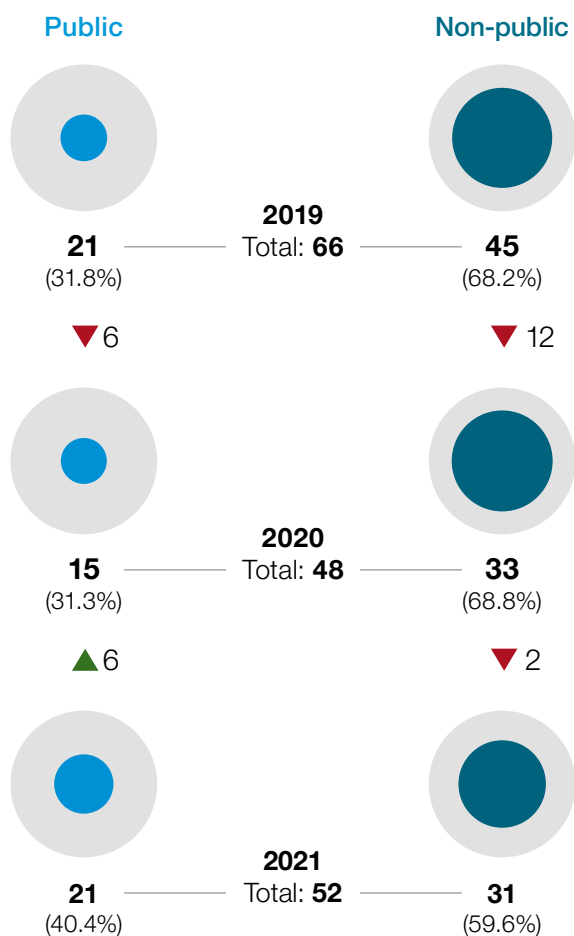
The Swiss debt-restructuring moratorium, as defined by the Swiss DEBA, is an in-court procedure which enables companies to initiate or implement restructuring and reorganisation measures.

The use of this instrument remained low despite the impact of the COVID-19 pandemic on the economy, illustrating the absorption of adverse economic consequences by the various state aids (COVID-19 credits, furloughs, hardship program, etc.) for many companies for the time being.

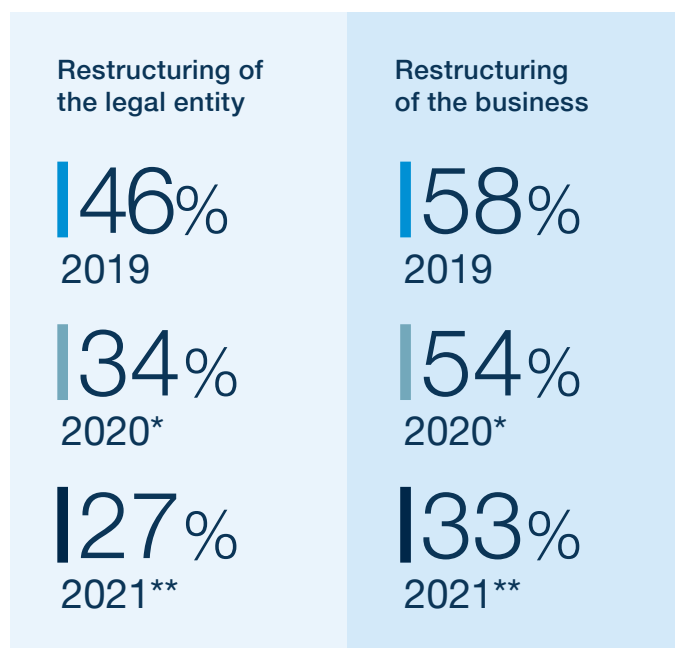
With a share of between 60 and 70%, the preference of companies seeking to waive a public announcement (a so-called silent procedure), remained unchanged, although the law-makers had foreseen this as an exception rule in the revision of 2014.

The authors expect the catch-up effect in the number of bankruptcies in 2022 to be also visible in the number of debt-restructuring moratoriums even though these could still represent a low percentage share.

#### How have the number of procedures evolved between 2019 – 2021?



#### What is the success rate of the restructuring procedure?



per 31.07.2022

\* 27% of the procedures are still ongoing

\*\* 42% of the procedures are still ongoing

The successful resolution of the procedures initiated in 2020 and 2021 is expected to increase as time passes by, as successful turnarounds generally take more time.

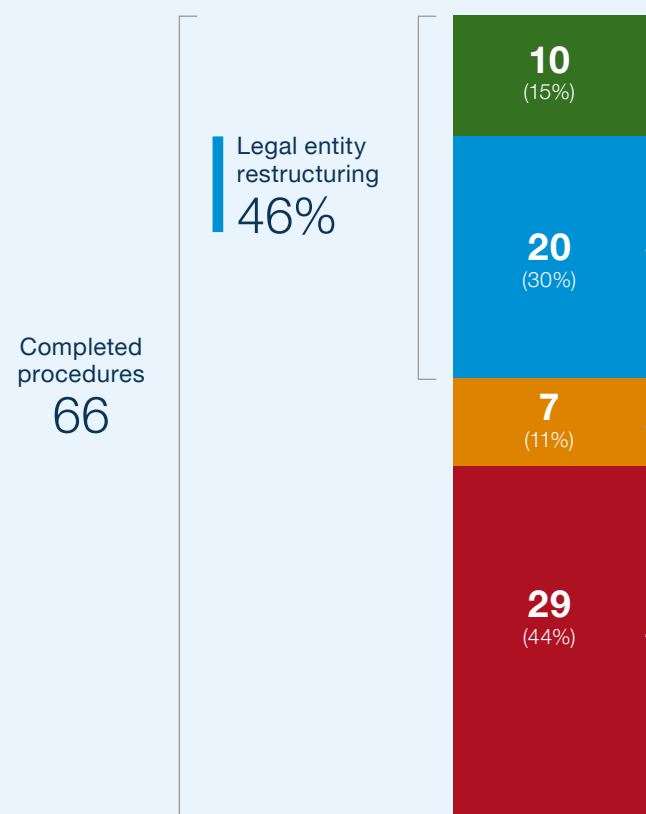
# Study results

The following is a summary of the results of the study in terms of procedural outcome for the period from 2019 to 2021. The analyses below reflect the result of the composition proceedings on the debtor company (legal entity), restructuring "in the narrow sense" or on the business (operating unit), restructuring "in the wider sense".

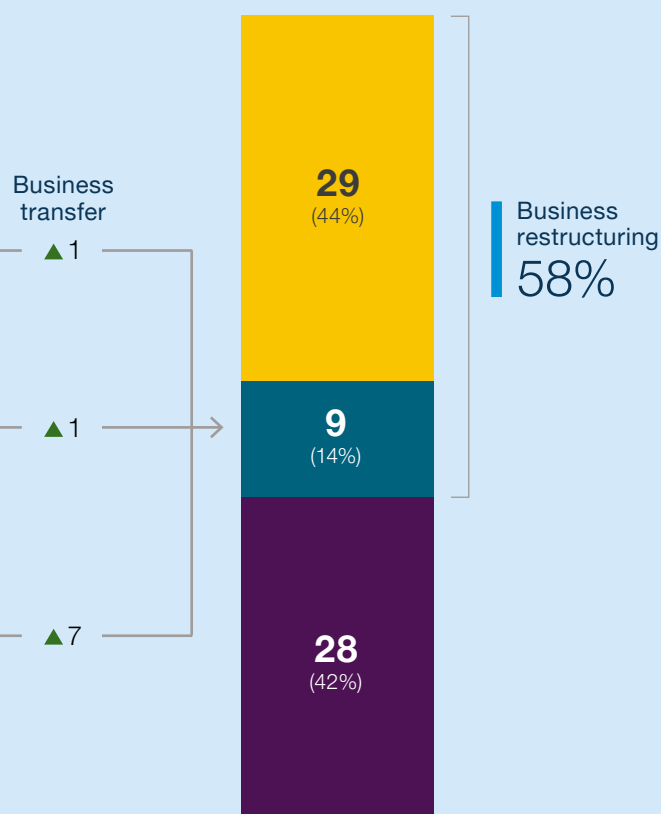
In other words, the reorganization assessments are based either on a legal consideration if the legal entity will be continued or liquidated or on a business consideration if the operating unit will be continued or liquidated. As a large proportion of proceedings initiated in 2020 and 2021 are still ongoing as of July 2022, there are limitations in the analysis of the outcome of proceedings.

## 2019

### Restructuring of the legal entity



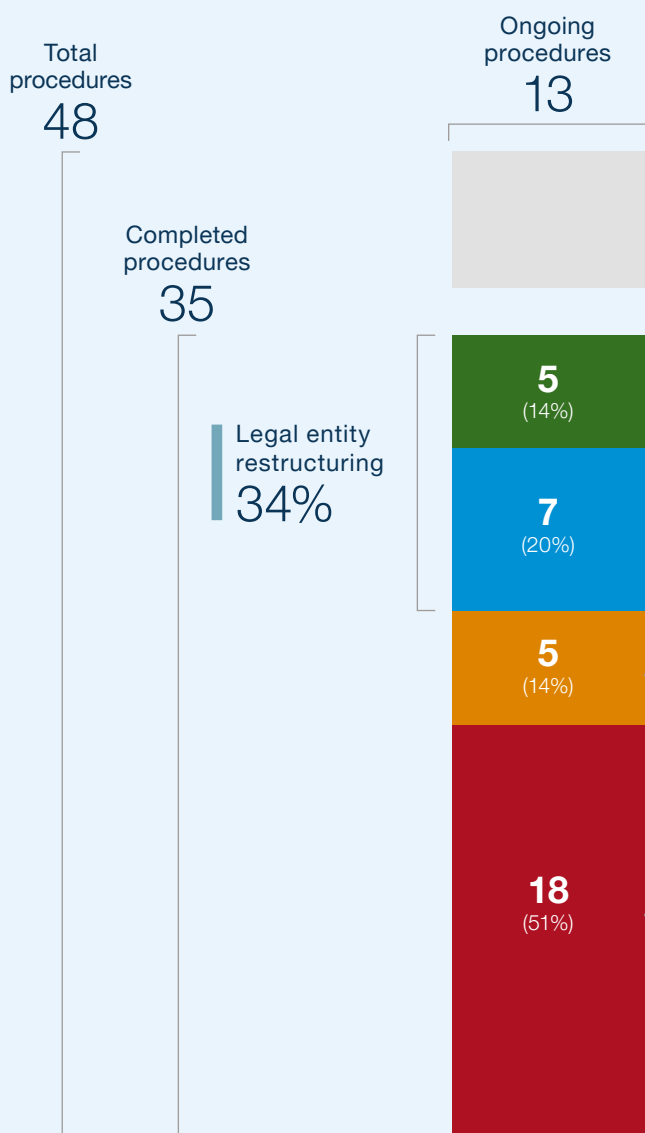
### Restructuring of the business



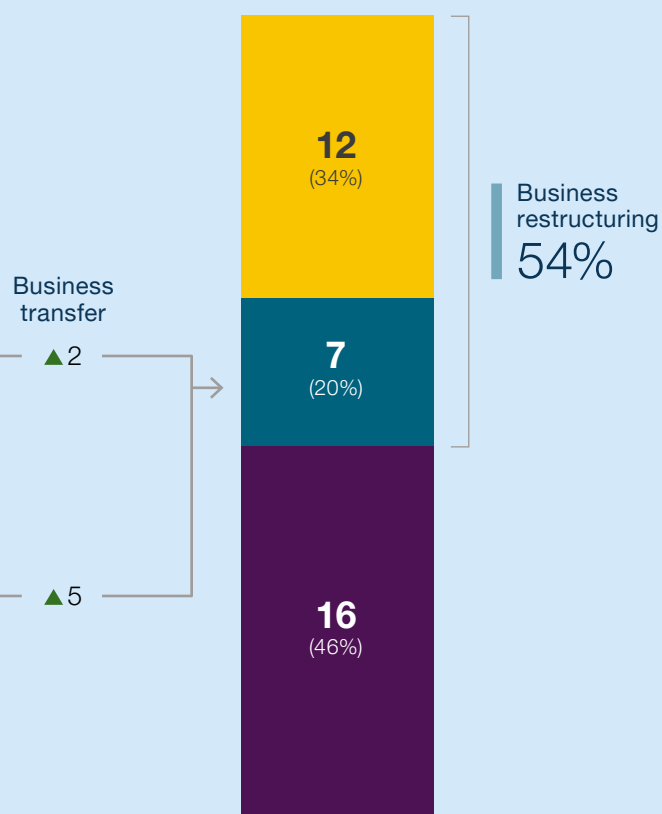
- Restructuring
- Composition agreement with assignment of assets
- Restructuring (narrow sense)
- Discontinuance of business
- Ordinary composition agreement
- Bankruptcy
- Business transfer

2020\*

## Restructuring of the legal entity



## Restructuring of the business



- Restructuring
- Composition agreement with assignment of assets
- Restructuring (narrow sense)
- Discontinuance of business
- Ordinary composition agreement
- Bankruptcy
- Business transfer

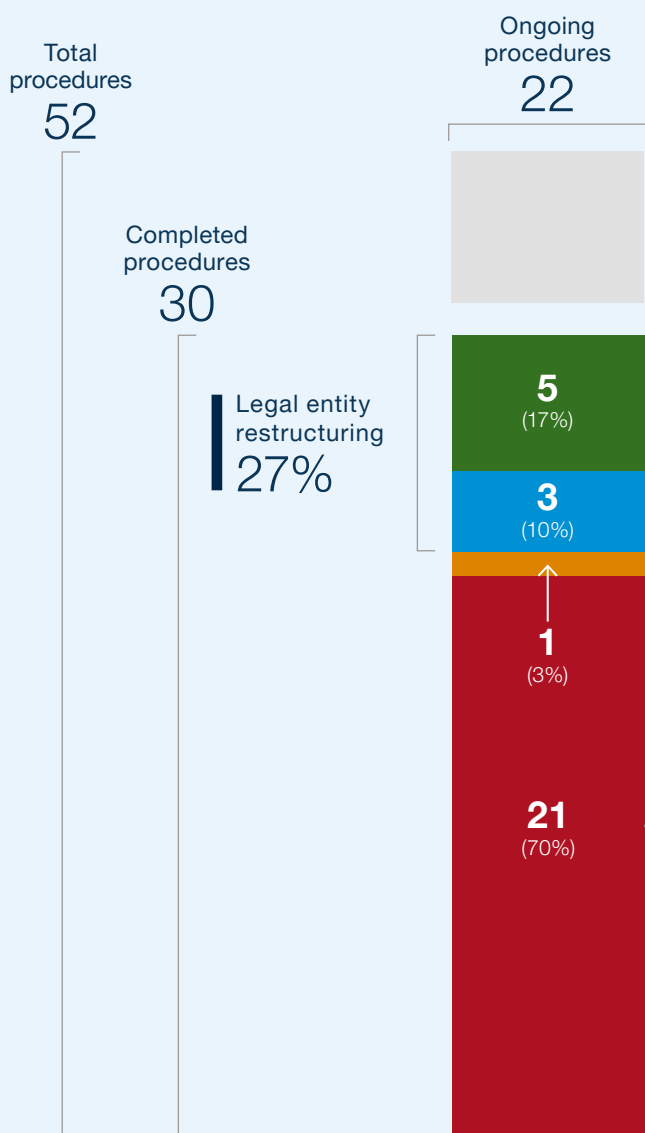
## Notes

\* 27% of the procedures are still ongoing as per 31.07.2022

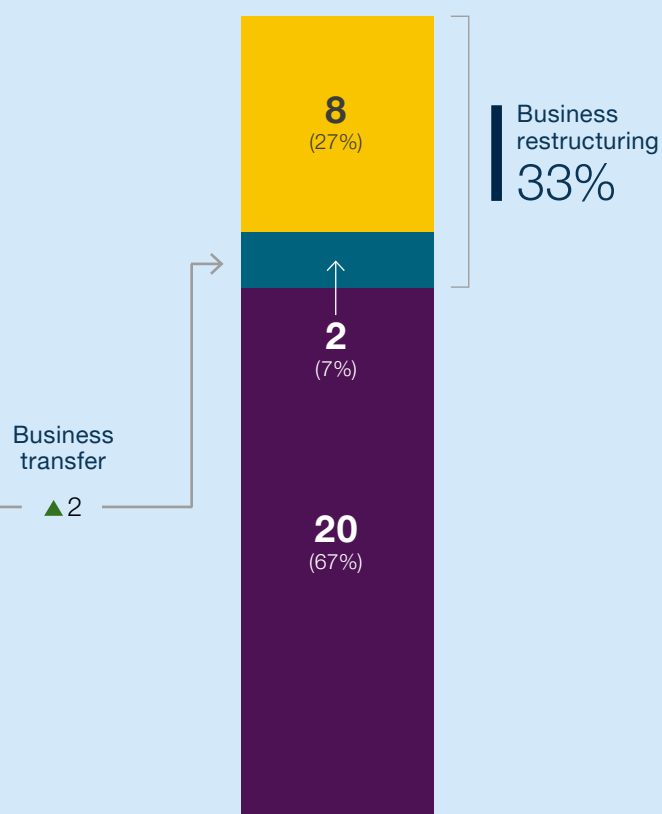
The successful resolution of the procedures initiated in 2020 and 2021 is expected to increase as time passes by, as successful processes generally take more time.

2021\*\*

## Restructuring of the legal entity



## Restructuring of the business



- Restructuring
- Composition agreement with assignment of assets
- Restructuring (narrow sense)
- Discontinuance of business
- Ordinary composition agreement
- Bankruptcy
- Business transfer

## Notes

\*\* 42% of the procedures are still ongoing as per 31.07.2022

The successful resolution of the procedures initiated in 2020 and 2021 is expected to increase as time passes by, as successful turnarounds generally take more time.

## Conclusion

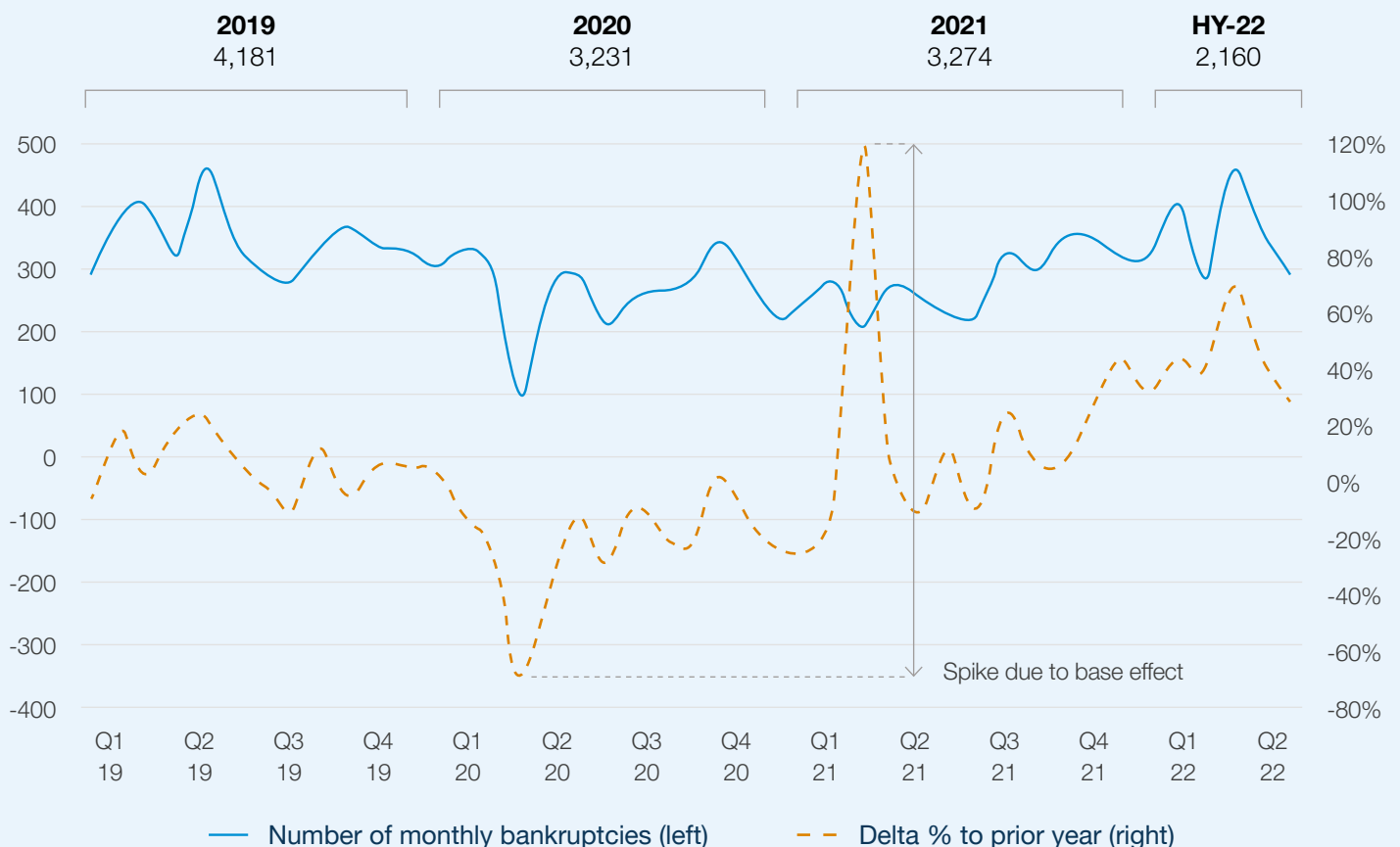
To a certain extent, the evolution shows that Swiss corporates do not use much the instrument of debt-restructuring moratorium. When it is used, it is primarily as a reactive defence mechanism.

From a business perspective of the outcome of the proceedings, around 60% of the operating businesses could be reorganized/saved in 2019. The possibility of business transfers in the sense of pre-pack transactions (e.g. hive-off solution) within the composition procedure plays an important role.

In the turbulent years 2020 and 2021, the absolute number of proceedings opened (analogous to the development of bankruptcies) even declined. The increase in the number of bankruptcies in 2022 shows that the effects of the pandemic have not yet been overcome, exacerbated by, among others, the continued impaired supply of raw materials and the onset of the energy crisis.

In the expected economic turbulent times, the Swiss debt-restructuring procedure could be used by companies as a proactive instrument to respond to changing market conditions.

### Excursus: How have company bankruptcies developed? (Exclusively legal form of PLC and LLC)





# A&M Case

## Company profile



Founded more than  
**30 years** ago



**1 Production centre**  
(15,000 sqm)



Customers across  
**4 continents**



Employment of  
**50-100 workers**

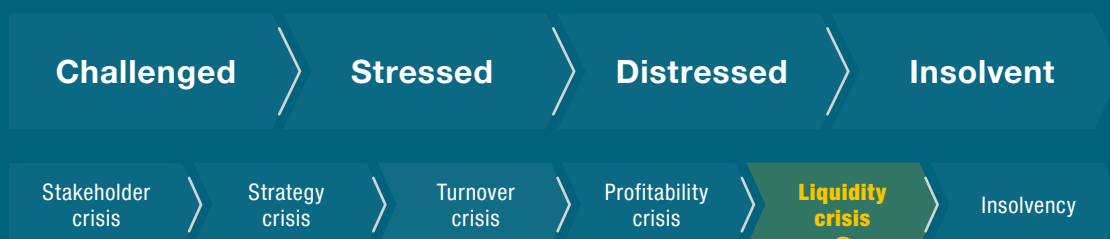


Sales between  
**CHF10m – CHF50m**



**2 business units**

## Crisis development



- Lack of revenue diversification by customer and industry/application led to weak bargaining position
- Large orders were increasingly accepted at barely break-even or even at a loss as capacity utilization was prioritised
- Already-tight liquidity situation was also significantly affected by temporary order and production interruptions as a result of the COVID pandemic
- The progression of the situation fits the description of the typical crisis phases



### Status of the company at project start of A&M

- Overindebtedness per Art. 725 of the CO
- Liquidity shortfall



# A&M Case

## A&M's services provided

# 1

**Rapid diagnostics** of the restructuring options (fix, sell, close) and implementation routes (judicial or extrajudicial implementation) for the attention of the Board of Directors.

# 2

The diagnostics shows that there are prospects for a turnaround. However, securing liquidity (see point 4) is only possible by means of in-court restructuring, i.e. a **debt-restructuring moratorium** procedure.

# 3

Preparation, application and initiation of a **debt-restructuring moratorium** without publication.

# 4

Structuring and organization of a bridge financing, the collateralization of which was only possible via a **debt-restructuring moratorium** and approved by the responsible administrator and court.

# 5

**Execution of an accelerated M&A process** with approximately 50 investors focused on special situations.



Continuation of the business unit focusing on **new technologies** and divestment of assets to a specialized buyer of production facilities and equipment.



# Contacts



## A&M: Leadership. Action. Results.

A&M has worked with some of the largest European and global organisations to stabilise financial performance, transform operations and accelerate results through decisive action.

When traditional improvement activities are not enough, A&M's restructuring and turnaround heritage brings fact-based, action-oriented leadership to transformation and delivers rapid results.

Our professionals have both operations and advisory experience together with a proven track record in leading businesses through tough, complex situations, often characterised by liquidity and time constraints.

They have deep expertise in distressed business planning, cash forecasting and management, working closely with company management teams and Boards of directors as they address critical challenges. To learn more about our expertise and to understand the full scope of our work please get in touch with one of our key contacts.



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## ABOUT ALVAREZ & MARSAL

Companies, investors and government entities around the world turn to Alvarez & Marsal (A&M) for leadership, action and results. Privately held since its founding in 1983, A&M is a leading global professional services firm that provides advisory, business performance improvement and turnaround management services. When conventional approaches are not enough to create transformation and drive change, clients seek our deep expertise and ability to deliver practical solutions to their unique problems.

With over 6,500 people across five continents, we deliver tangible results for corporates, boards, private equity firms, law firms and government agencies facing complex challenges. Our senior leaders, and their teams, leverage A&M's restructuring heritage to help companies act decisively, catapult growth and accelerate results. We are experienced operators, world-class consultants, former regulators and industry authorities with a shared commitment to telling clients what's really needed for turning change into a strategic business asset, managing risk and unlocking value at every stage of growth.

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