

Press Release

14 November 2025

SZA Schilling, Zutt & Anschütz Secures Landmark Ruling from the Federal Court of Justice on the Insolvency Ranking of Shareholder Claims in the Wirecard Case

In its judgment of 13 November 2025 (Case No. IX ZR 127/24), the German Federal Court of Justice (Bundesgerichtshof – BGH) held that capital markets–related shareholder damage claims do not constitute insolvency claims pursuant to Section 38 of the German Insolvency Code (InsO) in the company’s insolvency proceedings. With this decision, the BGH has provided definitive clarification on a legal issue that had long been disputed.

The action dismissed by the BGH at final instance was directed, among others, against the insolvency administrator of Wirecard AG, Dr Michael Jaffé, who was successfully represented in the proceedings by a team led by Mannheim-based SZA partner Prof. Dr. Thomas Liebscher. Before the Federal Court of Justice, SZA Schilling, Zutt & Anschütz worked together with BGH lawyer Dr. Reiner Hall. The proceedings were based on a claim brought by an investment fund that had acquired shares in Wirecard AG. In the insolvency proceedings, the fund asserted that its damage claim should rank equal with the claims of the company’s creditors – business partners, employees, and in particular debt-capital providers.

The judgment confirms the fundamental principle of German insolvency law that shareholders’ claims are subordinated in the company’s insolvency and can only be taken into account once the company’s creditors have been fully satisfied, which practically never occurs. “This highly welcome landmark decision provides urgently needed legal certainty for all stakeholders in future insolvency and restructuring cases. Its impact will therefore extend far beyond the specific case and will significantly influence insolvency and restructuring practice in Germany,” emphasises Prof. Dr. Thomas Liebscher, partner at SZA Schilling, Zutt & Anschütz.

SZA Schilling, Zutt & Anschütz:

Prof. Dr. Thomas Liebscher (lead), Alexander Rickelt (both Litigation and Arbitration, Mannheim)

SZA Schilling, Zutt & Anschütz Rechtsanwaltsgesellschaft mbH

Taunusanlage 1
DE-60329 Frankfurt a. M.
T +49 69 9769601 0
F +49 69 9769601 102

Otto-Beck-Straße 11
DE-68165 Mannheim
T +49 621 4257 0
F +49 621 4257 280

www.sza.de

Maximiliansplatz 18
DE-80333 München
T +49 89 4111417 0
F +49 89 4111417 280

info@sza.de

Square de Meeûs 23
BE-1000 Brüssel
T +32 28 935 100
F +32 28 935 102

SZA SCHILLING, ZUTT & ANSCHÜTZ

Representing the insolvency administrator:

Dr. Michael Jaffé (Insolvency Administrator), Dr. Michael Schuster and Martin Fritz (both Insolvency Law)

German Federal Court of Justice:

BGH lawyer Dr. Reiner Hall

SZA Schilling, Zutt & Anschütz Rechtsanwaltsgesellschaft mbH

SZA Schilling, Zutt & Anschütz has been one of the most respected German business law firms for 125 years. With its lawyers and offices in Frankfurt, Mannheim, Munich, and Brussels, the firm advises national and international clients on all complex legal issues arising in business.

Press contact

If you have any further questions, please contact Kerstin Gauf:

E Kerstin.Gauf@sza.de

P +49 69 9769601 204

M +49 170 8432302