

FINANCIAL EXPERTS IN ACTION

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Higher Regional Court of Düsseldorf entirely follows ValueTrust’s expert opinions rendered in the appraisal proceedings regarding the squeeze-out of minority shareholders of AXA Konzern AG

In its decision dated June 20, 2022, the Higher Regional Court (“HRC”) of Duesseldorf, Germany reversed the previous decision of the Regional Court (“RC”) of Cologne, Germany in the appraisal proceedings regarding the squeeze-out of minority shareholders of AXA Konzern AG (“AKAG”). Due to the decision by HRC Duesseldorf, the appraisal proceedings, which had lasted for c. 15 years, have been concluded without a court-adjudicated exit compensation increase.



In the first instance of the appraisal proceedings, the court-appointed independent valuation expert Niethammer, Posewang & Partner GmbH Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft (“NPP”) had determined that the appropriate exit compensation per AKAG share should have been EUR 237,74 (ordinary shares) and EUR 238,77 (preferred shares). The increase of c.77% over the exit compensation originally paid to minority shareholders was largely driven by NPP’s significantly lower cost of capital assumptions (c. 64% of increase) and adjustments to certain planning assumptions (c. 32% of increase). Due to two expert opinions rendered by ValueTrust (“VT Opinions”), RC Cologne rejected NPP’s assumptions with regards to the cost of capital parameters and only partially followed NPP’s view on adjustments of certain planning assumptions. RC Cologne ruled that a court-adjudicated increase from EUR 144,69 (ordinary shares) and EUR 146,24 (preferred shares) to EUR 177,58 per AKAG-share represented an adequate exit compensation.

In the 2nd instance of the appraisal proceedings, HRC Düsseldorf confirmed ValueTrust's view that – contrary to the RC Cologne decision – adjustments of planning assumptions regarding the so-called combined ratio in the terminal value period were neither appropriate nor plausible. When assessing the adequacy of the exit compensation in the context of structural measures under German Stock Corporation Law, the court held that a de minimis limit of 5.0% should be taken into account. Citing the VT Opinions in its decision multiple times and making use of the transparent and clear results in the VT Opinions, HRC Düsseldorf was able to determine without scheduling an additional hearing that an increase of the exit compensation was not required at all.

About ValueTrust

ValueTrust provides expert-based business valuation and financial advisory for executives and investors in demanding situations: transactions, restructuring and reorganization, dispute and arbitration as well as strategic value and portfolio management. ValueTrust supports its clients in an experience-based, partnership-based and independent spirit by clearly focusing on sustainable, practicable solutions that are both theoretically and legally sound. ValueTrust's advisory approach is based on years of project experience, the skills of its professionals, trustful cooperation with its clients as well as the support of industry-experienced senior advisors.

Best regards,

Prof. Dr. Christian Aders

Senior Managing Director

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Wirtschaftsprüfer
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ValueTrust

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