

PE-Backed British Steel Forced Into Liquidation

By Joanne Faulkner

Law360, London (May 22, 2019, 3:31 PM BST) -- Private equity-backed British Steel entered into insolvency proceedings on Wednesday after the British government rejected pleas for emergency funding, three years after the business was saved from the brink of collapse.

The High Court ordered British Steel Ltd. to be placed into compulsory liquidation and has appointed the government's Official Receiver to oversee the process. Accounting firm EY has taken on the role of special manager to attempt to find a buyer for the business.

The Official Receiver — part of the Insolvency Service — said its priority is to allow the steelmaker's sites to continue to operate safely. The company's collapse puts approximately 5,000 jobs in the U.K at risk, mostly in the industrial northeast and east of England.

Business Secretary Greg Clark issued a statement on Wednesday that confirming talks between the government, British Steel and its private equity owner, Greybull Capital, have broken down. The company — which blamed uncertainty created by Brexit and a slump in orders for its financial troubles — had sought a £30 million (\$38 million) emergency state loan.

"The government can only act within the law, which requires any financial support to a steel company to be on a commercial basis," said Clark. "I have been advised that it would be unlawful to provide a guarantee or loan on the terms of any proposals that the company or any other party has made."

British Steel now has renewed interest in chasing a disputed £30 million legal claim with Zurich Insurance, Liberty and others over damage to a blast furnace in 2017, according to Mactavish, which specializes in analyzing insurance governance and disputes and is representing the company.

The insurers rejected the claim in 2018, but British Steel hired Mactavish to review the investigation. The company alleges there were "major deficiencies" in the insurers' investigation and said they should reopen the case and settle the claim in full. British Steel is also seeking damages from the insurers to compensate for their slow response and incomplete investigation of the claim, according to Mactavish.



British Steel has been placed into compulsory liquidation by the High Court in London, which has appointed the government's Official Receiver to oversee the move. (AP)

"From our review, we feel that Zurich and Liberty's investigation was incomplete and wrong," Bruce Hepburn, Mactavish's chief executive, said Wednesday. "Given British Steel's current situation, settlement of this claim would have made a major contribution to securing the survival of this British institution that had finally been returned to profitability as a viable producer of high-end steel products."

British Steel has been struggling for more than three years. The company was brought back from the brink of collapse in 2016 when turn-around specialist Greybull paid Tata Steel Ltd. a nominal fee of £1 to acquire the loss-making business, renaming it British Steel.

The deal led to a complex restructuring of workers' pensions. Members were told to decide whether to transfer their investments to a new plan, known as BSPS II, switch it to the pension's lifeboat fund or withdraw the cash in a lump sum and make potentially riskier arrangements. It later emerged that some members who withdrew their savings had been targeted by unscrupulous pension advisers.

The parliamentary Work and Pensions Committee has criticized regulators for failing to protect members of the pension scheme and has called for reforms.

The Pensions Regulator issued a statement on Wednesday, telling workers that British Steel pensions were safe despite the company's troubles, because the new scheme has no links with the ailing company.

"British Steel had no ongoing link to the British Steel Pension Scheme after the company was purchased in June 2016," a spokesperson for TPR said.

"Many British Steel employees in the U.K. were previously members of the British Steel Pension Scheme and so made a decision about what they wanted to do with their BSPS pension in 2017. Their decision at that time and the security of their benefits has not been impacted by British Steel going into liquidation."

British Steel's senior lenders — including syndicate agent PNC Business Credit, ABN Amro Bank NV and Secure Trust Bank — are represented by Crowell & Moring LLP in their funding efforts for the manufacturer as well as the recent negotiations with Greybull and the government. The Crowell team is led by finance partner Andrew Knight and includes restructuring partners Cathryn Williams and Paul Muscutt.

--Editing by Ed Harris.

Update: This story has been updated with information about British Steel's lenders and their counsel.