



**INSOL EUROPE
TURNAROUND WING
GUIDELINES FOR
RESTRUCTURING
AND TURNAROUND
PROFESSIONALS**

INTRODUCTION

The INSOL Europe Turnaround Wing Guidelines ('TW Guidelines') were developed in 2015 by INSOL Europe's Turnaround Wing, through consultation with members practising throughout Europe and beyond, under the supervision of a Review and Advisory Board, and were produced with the assistance of the Turnaround, Rescue and Insolvency team from the Law School of the University of Leiden.

The TW Guidelines for restructuring and turnaround professionals aim to:

- a) offer leadership to the turnaround practice in Europe;
- b) promote out-of-court restructuring rather than liquidation;
- c) provide the basis for a long-term sustainable future for the business by ascertaining the quality of turnaround professionals; and
- d) enhance the trust in the profession on the market.

The TW Guidelines apply to out-of-court assignments only. They should be interpreted and applied with regard to the specific context of the case e.g. the role of the professional in the process; the variety of stakeholders and interests involved; the complexity as well as the emergency aspects of restructuring/turnaround situations; the particularities of the communication which requires the appropriate balance between confidentiality and the need to provide necessary disclosure.

Restructuring means changing the composition, conditions, or structure of assets and liabilities of debtors, or a combination of those elements, with the objective of enabling the continuation, in whole or in part, of the debtors' activity.¹

Turnaround means the recovery of a firm's economic performance following a threatening decline.²

¹ European Commission Recommendation 'New Approach to Business Failure and Insolvency' of 12 March 2014, Article II.5(b).

² Pandit, N.R., Some Recommendations for Improved Research on Corporate Turnaround, *Management*, Vol. 3, No. 2, 2000.

GUIDELINE 1: Assignment of an RTP

- 1.1 A Restructuring and Turnaround Professional ('RTP') is any person or body entrusted out-of-court to restructure or turnaround a company, a part of a company, or a group of companies or any other entity.
- 1.2 An RTP considers the entrusting person, body or company his/her client, unless otherwise agreed upon in writing.
- 1.3 An RTP is guided by these non-binding TW Guidelines except to the extent they contravene the law, contracts or other binding rules or regulations. These TW Guidelines do not apply in insolvency proceedings mentioned in an Annex to the European Insolvency Regulation (EIR) nor in any other legal reorganisation or restructuring proceedings which arranges for court involvement.
- 1.4 Before commencing work an RTP requests a written contract or an engagement letter, containing at least the scope of the assignment, the position of the RTP in the organisation and his/her competences, and a description of the fee.

GUIDELINE 2: Professional Attitude

- 2.1 An RTP performs his/her tasks with due care, expertly, effectively and efficiently.
- 2.2 An RTP behaves with courtesy and consideration towards all parties involved and avoids behaviour discrediting the profession.
- 2.3 An RTP has the capacity to manage complex situations. Before commencement and regularly thereafter, (s)he evaluates whether (s)he is capable to handle the assignment properly.

GUIDELINE 3: Ethical Attitude

An RTP:

- (a) performs with integrity, meaning that an RTP is straightforward, honest and fair;
- (b) maintains appropriate and relevant confidentiality of information acquired as a result of the assignment;
- (c) avoids identification with the client, in order to provide the best performance in any situation;
- (d) avoids bias, conflict of interests or undue influence of others to influence or override his/her professional judgments;
- (e) performs the assignment ultimately guided by the interests of the client and in doing so has due regard to the interests of the other stakeholders.

GUIDELINE 4: Communication with the Client

- 4.1 An RTP owes his/her primary duty to the client.
- 4.2 An RTP is accountable to the client.
- 4.3 An RTP communicates regularly, timely, and in a transparent and trust-based way with the client and informs the client completely and truthfully.
- 4.4 An RTP informs the client speedily on any relevant external contacts (s)he has had regarding the assignment.
- 4.5 An RTP considers immediate termination of the assignment in case (s)he is misled by the client or lacks sufficient support by the client. In case of termination, the RTP duly informs the client.
- 4.6 Any deviation from the aforementioned Guidelines is to be agreed upon in writing.

GUIDELINE 5: Communication with Stakeholders

- 5.1 An RTP communicates externally only if the interests of the client so require.
- 5.2 An RTP communicates clearly with the stakeholders (s)he comes in contact with, who the client is and what his/her assignment essentially concerns.

GUIDELINE 6: RTP Governance

- 6.1 An RTP enables parties to complain and handles complaints made according to the Guidelines 2 and 3 of the TW Guidelines.
- 6.2 An RTP organises his/her own governance through the membership of a professional organisation or otherwise.
- 6.3 An RTP fully cooperates with any governance mechanisms (s)he comes across in the course of the assignment.