INSOL Europe Insolvency Office Holders Forum - Draft Working Paper

	-		olders Forum - Draft Working	1	To a
Size (No. of	Germany 3,410	United Kingdom 1,745	France Judicial Administrators - 111	Italy Institute of Chartered Accountants -	Spain Estimated 5,000
OH's) Size>2,000 500<=Size<=2,0 00 Size<500	3,110	27.0	Judicial Liquidators - 309	27,000 Bar association - N/K	Estimated 5,000
Appointment Court only Ratified by the Court A combination of methods of appointment	Court	CVA - nominated by director, liquidator or administrator and ratified by creditors Administration - Company, Directors, Court CVL - nominated by directors, ratified by creditors Compulsory Liquidation / Bankruptcy-Court/Official receiver IVA - nominated by debtor, ratified by creditors	Court	Court	Listed companies - National Securities Market Commission; All other - Court
Person and/or Coporate OH Corporate only Corporate or Person Person only	Person	Person	Person	Person	Person, Corporate
Types of firms Small specialist Sole to medium/large	Lawyers / Accountants	Sole practicioners - large firms	Small specialist	Individual	Individual lawyers/economists - large firms.
Professional Bodies	- Chambers of Lawyers ("BRAK") - Tax Advisors ("BStBK") - German Bar Association ("DAV") - Chamber of Chartered Accountants ("WPK")	ACCA, ICAEW,CARB, ICAS, IPA, LSS,SRA	Garde des Sceaux (French Ministry of Justice) National Council of Judicial Administrators and Judicial Liquidators	-Bar Association	-Bar association or -Association of Economists.
Entry requirements for OH No qualification required Professional/ot her qualification required Professional qualification required professional qualification required and/or pass insolvency exam	-Lawyer -3 to 10 years' experience in the field -Work in a firm with several employees who have specialised in insolvency law, labour law, corporate law and tax	- Pass professional JIEB exams, or -hold equivalent qualifications from European Economic Area State 600 hours experience in three years before applying for licence.	-High school diploma -4 year university degree (law, finance, economics) -professional exam -Completion of trial period -Professional aptitude test	No specific qualification to become IOH. Normally professionals (Accountant or Lawyer).	Lawyer with 5 yrs experience (or?) economist with 5 yrs experience. Court can also appoint a legal entity to be a practicioner.
Training / CPE No requirements	- DAV 10 hours a year - VID 30 hours a year	Must achieve targets set for education that are confirmed nationally.	Not known	Institute specific requirements	None specific to insolvency. Only mandatory training from professional body.
Sanction for Acting as Unauthrosied OH	Rare because the IOH is appointed by the Insolvency Court. If IOH has cheated about his qualification - criminally liable, liable for damages and fraud	Sanction from body	Not known	Not possible because the IOH is nominated by the bankruptcy Court	Imprisonment 6 months - 2 years
Bonding / Liability insurance May have Must have	No statutory requirement for surety /indemnity insurance. IOH's tend to hold Professional Indemnity Insurance	Must hold a bond and professional indemnity insurance.	Insurance required	Every professional must have a professional indemnity insurance	€800,000 - €4,000,000 depending on: -experience -if company is listed -if com
Remuneration Time costs % of assets Other A combination	Time costs Also dependent on - % of estate - Number of creditors - Complexity of case (dealing with securities, employee issues)	-Fixed fee -Time cost -% of assets -A combination of the above	Normally at percentage of realisations or turnover	% on active realised and recovered assests - the court approves the remuneration	% of assets and % of liabilities
Release None/other Court Time	None but limited by IOH using special clauses in agreements and conracts	Discharged from liability when they have left office.	Not known	None	Not known

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	Nothorlands	Sweden	Rolgium	Austria	Donmark
Size (No. of	Netherlands c.800	400	Belgium N/K	1,296	Denmark N/K - but Attorneys act as OH,
OH's)	2.000	100	.,,,		6,000 Attorneys admitted to the
Size>2,000					bar.
500<=Size<=2,0					
00					
Size<500					
Appointment	Court	By court	Court	Court	Court
Court only					
Ratified by the Court					
A combination					
of methods of					
appointment					
Person and/or	Person	Person	Person	Person, Corporate	Person
Coporate OH				r erson, corporate	. cison
Corporate only					
Corporate or					
Person					
Person only					
Tunos of firms	Large law firms cole practitioners	Small to large law firms	Large small law / accountancy firms	Small/Nicho firms	Solo practitioners to large law firms
Types of firms Small specialist	Large law firms - sole practitioners. Many medium sized	Small to large law firms	Large - small law / accountancy firms	Smany Wiche HIIIS	Sole practitioners to large law firms
Sole to	restructuring/insolvency firms				
medium/large	,, ,				
Professional		Swedish bar Association and also	None insolvency specific but typically		The Association of Danish
Bodies	a bankruptcy trustee.	Swedish Reorganization and	subsets of:	Tax, Law, Audit, Other professionals	Insolvency Practitioners
		Administrator's Organization.	- Attorneys (e.g. Brussels bar		Work and standards of OHs
	members of INSOLAD.		Accountants (Associations of Accountants and Tax Consultants)		overseen by Bankruptcy Court and Danish Bar Association
	Dutch lawyers are admitted to the Dutch Bar Association and subject to		- Auditors (Association of Auditors)		respectively.
	disciplinary law		- Bailiffs (National Chamber of Bailiffs		respectively.
	alsapinary law		- Notaries Public (National Chamber		
			of Notaries Public		
Entry	the state of the s	Member of the Swedish Bar	Bankruptcy liquidations - Court list		Attorney
requirements for OH	these lawyers: - have completed one or more	Association, unless a member of Ackordcentralen (but must be acting	Judicial administrator - no specific conditions / training	IOH. Normally professionals	A non-compulsory certification
No qualification	specialist courses on insolvency law	practicioner for several years).	Debt mediator - 3 years' relevant	(Accountant or Lawyer). Trustworthy person with knowledge	scheme by The Association of Danish Insolvency Practitioners is
required		Different regions require different	experience or 60 hours' special	of business and insolvency	also available.
Professional/ot	Insolvency Practitioners	levels of experience.	training	,	
her	- can demonstrate proven		Liquidator - Court must approve		
qualification	expereince in dealing with		Provisional administrator - appointed		
required	insolvency law.		by president of the court		
Professional					
qualification					
required and/or pass insolvency					
exam					
CAGIII					
Training / CPE		18 hours of structured learning per	None insolvency specific	4 annual seminars	Min. 54 units (each of 45 minutes)
No	maintaining continuining	year.			of continuing education over a 3
requirements	professional education.				year period.
Sanction for	Issue unknown in Netherlands as	N/A - court appointments	N/A - all appointments are made by	Liable for monetary losses as a result	None
Acting as	district courts have sole and	•• • • •	the Court	of dereliction	
Unauthrosied	absolute discretion in appointing				
ОН	IOHs				
Bonding /	Requirement of the DBA that	Professional Indemnity Insurance a	No obligation, however, strongly	€0.4 - 2.4m	Professional Indemnity Insurance a
Liability	lawyers hold professional indemnity	requirement	recommended.	CO.4 2.4III	requirement
insurance	insurance				
May have					
Must have					
L				* f	
Remuneration		Proceeds of assets. If no funds	Bankruptcy Liquidator - % of assets	% of assets	Approved by the Bankruptcy Court
Time costs	insolvent estate	available Swedish state will pay (set	Judicial administrator - time costs Debt mediator - fixed amount	Decreasing pro-rata	
% of assets Other	Basis of time and hourly rates determined by the courts	amounts).	Debt mediator - fixed amount determined royal decree		
Other A combination	acterminea by the courts		Liquidator - time costs		
A COMBINATION			Provisional administrator - time costs		
			The costs		
Release	IOH cannot be discharged from	Not known	Once liability and taxes of OH's fees	None but general supervision of OH	Three years from time the loss was
None/other	liability		and costs are settled?	by Court	incurred.
Court					
Time					
1					
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	Ireland	Greece	Portugal	Czech Republic	Romania
Size (No. of	656	N/K	354	500	3724 (2814 active)
OH's)					· ·
Size>2,000					
500<=Size<=2,0 00					
Size<500					
Appointment	Debtor/creditor/petitioner	Court	Court - creditors can freely	Court	Court
Court only	nominates, court makes the		substitute the appointed IOH		
Ratified by the	appointment				
Court A combination					
of methods of					
appointment					
Person and/or	Person	Person, Corporate	Person	Person, Corporate	Corporate
Coporate OH					
Corporate only Corporate or					
Person					
Person only					
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Types of firms Small specialist	Accountancy firms / sole practitioners	Sole practitioners	Sole practitioners/partnership	Large to sole practitioners. Attorneys / Tax Advisors / Auditors	Professional limited liability companies, personal limited liability
Sole to	practitioners			/ Tax Advisors / Additors	companies and individual practices
medium/large					
Professional	IOHS are usually accountants and	The Bar	Regulated and supervised by the	Chamber of Specialists for Crisis	The National Organisation for
Bodies	member of either Chartered Accountants Ireland or the	Code of Lawyers	Commission for the Supervision of Court Auxiliaries	Management and Insolvency in the Czech Republic	Insolvency Practitioners (UNPIR)
	Association of Chartered Certified		Court Auxiliaries	Association of Insolvency	
	Accountants			Administrators	
Entry	Member of a prescribed	Attorney at law with min. 5 years'	Academic degree and professional		1. Economic or law degree
requirements for OH	accountancy body and hold a praciticing certificate issued by that	experience.	experience 2. Training period	Pass Special Insolvency Exam (written and oral)	3 years of experience in law or economic field
	body		3, Approval in the final exam	3 years' relevant professional practice	
required	A solicitor who holds a practicing		organised by the CSCA	Clean record	National Training Institute for
Professional/ot	certificate issued by the Law Society				Insolvency Practitioners
her	of Ireland				
qualification required	A member of a professional body recognised by a supervisory authority				
Professional	A person qualified under the laws				
qualification	of another EEA state				
required and/or	5. A person with practical experience				
pass insolvency	of winding ups and knowledge of				
exam	relevant laws				
Training / CPE	CPD regulation: 20 hours of	None	Have to attend training courses and	General statutory obligation of	20 hours per year, which can be
No requirements	structured and 50 hours of unstructured		seminars, CSCA yet to enact the regulation regarding continuining	continuous professional education	obtained by participating in The National Training Institute for
requirements	unstructured		professional education		Insolvency Practitioners' seminars or
			professional cadadation		conferences
Sanction for Acting as	Liable on summary conviction: fine up to EUR 5,000 and/or	Rare as Court appoints OH but in	Fine up to EUR 250,000. Imprisonment up to 2 years.		Criminal sanctions - unlikely as IOH
Acting as Unauthrosied	imprisonment up to 12 months	such cases, Code of Lawyers applies.	imprisonment up to 2 years.	practise. Cancellation of licence.	registers are publicly accessible
ОН	Liable on conviction on indictment:		Unlikely as IOHs appointed from an	Fine max. 200,000 CZK.	
	fine up to EUR 500,000 and/or		official list.		
	imprisonment up to 10 years				
Bonding /	Person must have professional	No requirement	Do not need to hold a bond but	Min. 1m CZK multiplied by number of	No surety requirements that an IOH
Liability	indemnity insurance	requirement	must have an insurance policy for	OHs	maintain in respect of
insurance	, and a second		civil liability.		appointments.
May have					National Organisation for Insolvency
Must have					Practitioners requires members to
					hold professional indemnity insurance
Remuneration	Basis of time	Dependent on:	Fixed remuneration EUR 2,000.	Determined by number of reviewed,	Proceeds of assets.
Time costs		-Size of estate	Variable remuneration is % of value	registered claims and proceeds	If the procedure lacks assets and has
% of assets		-Time costs	obtained from the proceeds of the	distributed to creditors. Specific	no means of sustaining the
Other		-Distribution to creditors	assets, range from 0.1%-7%, court	amounts regulated by Ministry of	procedure costs, the costs will be
A combination			can adjust if exceeds EUR 50,000	Justice	sustained by a national fund.
Release	Deed of discharge or by filing their	3 year limit on claims (from the time		In relation to breach of duty -released	
None/other	final returns	the victim becomes aware of the	two years after the claimant was	if damage could not be prevented in	insolvency procedure has been
Court		damage and the act).	aware of its right, case is limited to	OH duties	closed
Time			two years after the IOH has ceased to carry out their functions.	In relation to liability to a creditor - released if OH proves he could not	
			to sarry out their runctions.	have known that the insolvency	
				estate would not be sufficient for	
				satisfaction of the creditor's claim	
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