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)			.,.	1,230	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	. 6.36.1	. crss	. 6.55.1	r crossi, corporate	. 613011
Corporate only					
Corporate or					
Person					
Person only					
Types of firms	Large law firms - sole practitioners.	Small to large law firms	Large - small law / accountancy firms	Small/Niche firms	Sole practitioners to large law firms
Small specialist	Many medium sized	Small to large law firms	Large - Small law / accountancy firms	Jinan/Miche III IIIS	Sole practitioners to large law firms
Sole to	restructuring/insolvency firms				
medium/large	<u> </u>				
Professional			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
	Most 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.
	discipilitary law		- Notaries Public (National Chamber		
			of Notaries Public		
Entry	Most district courts require that	Member of the Swedish Bar	Bankruptcy liquidations - Court list		Attorney
requirements	these lawyers:	Association, unless a member of	Judicial administrator - no specific	IOH. Normally professionals	A non-compulsory certification
for OH	- have completed one or more		conditions / training	(Accountant or Lawyer). Trustworthy person with knowledge	scheme by The Association of
No qualification required	specialist courses on insolvency law provided by the Dutch Association of	practicioner for several years). Different regions require different	Debt mediator - 3 years' relevant experience or 60 hours' special	of business and insolvency	Danish Insolvency Practitioners is also available.
Professional/ot	Insolvency Practitioners	levels of experience.	training	or business and insolvency	aiso available.
her	- can demonstrate proven	icveis or experience.	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					
Training / CPE	Must demonstrate they are	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	coare appointments	the Court	of dereliction	
Unauthrosied	absolute discretion in appointing				
ОН	IOHs				
Donaline /	Doguisoment - f th - DD : 1	Drofossional Indonesity	No obligation to the second	60.4. 3.4m	Drofossional Indonesia t
Bonding / Liability	Requirement of the DBA that	Professional Indemnity Insurance a requirement	No obligation, however, strongly recommended.	€0.4 - 2.4m	Professional Indemnity Insurance a requirement
insurance	lawyers hold professional indemnity insurance	requirement	reconfinenceu.		requirement
May have	31100				
Must have					
Remuneration	Proceeds of the assets of the	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	Decreasing pro-rata	
% of assets	Basis of time and hourly rates	amounts).	Debt mediator - fixed amount		
Other A combination	determined by the courts		determined royal decree Liquidator - time costs		
Moiteniamo			Provisional administrator - time costs		
l .	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
Release	liability		and costs are settled?	by Court	incurred.
Release None/other	liability				
	liability				
None/other	mability				
None/other Court	liability				
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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					
Types of firms	Accountancy firms / sole	Sole practitioners	Sole practitioners/partnership	Large to sole practitioners. Attorneys	Professional limited liability
Small specialist	practitioners	Sole procedurers	Sole praeditioners/partiters.iip	/ Tax Advisors / Auditors	companies, personal limited liability
Sole to					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	Code of Lawyers	Commission for the Supervision of	Management and Insolvency in the	Insolvency Practitioners (UNPIR)
	Accountants Ireland or the		Court Auxiliaries	Czech Republic	,
	Association of Chartered Certified			Association of Insolvency	
	Accountants			Administrators	
Entry	1. Member of a prescribed	Attorney at law with min. 5 years'	1. Academic degree and professional	Masters degree in Economics or Law	1. Economic or law degree
requirements	accountancy body and hold a	experience.	experience	Pass Special Insolvency Exam (written	2. 3 years of experience in law or
for OH	praciticing certificate issued by that		2. Training period	and oral)	economic field
	body		3, Approval in the final exam	3 years' relevant professional practice Clean record	
required Professional/ot	A solicitor who holds a practicing certificate issued by the Law Society		organised by the CSCA	Clean record	National Training Institute for Insolvency Practitioners
her	of Ireland				, , , , , , , , , , , , , , , , , , , ,
qualification	3. A member of a professional body				
required	recognised by a supervisory authority				
Professional qualification	A person qualified under the laws 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 .	structured and 50 hours of		seminars, CSCA yet to enact the	continuous professional education	obtained by participating in The
requirements	unstructured		regulation regarding continuining professional education		National Training Institute for Insolvency Practitioners' seminars or
			professional education		conferences
Sanction for Acting as	Liable on summary conviction: fine up to EUR 5,000 and/or	Rare as Court appoints OH but in such cases, Code of Lawyers applies.	Fine up to EUR 250,000. Imprisonment up to 2 years.	Suspension or termination of right to practise.	Criminal sanctions - unlikely as IOH registers are publicly accessible
Unauthrosied	imprisonment up to 12 months	sacir cases, code or cawyers applies.	prisonment up to 2 years.	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		must have an insurance policy for	OHs	maintain in respect of
insurance			civil liability.		appointments.
May have					National Organisation for Insolvency
Must have					Practitioners requires members to hold professional indemnity
<u></u>					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 Other		-Time costs -Distribution to creditors	obtained from the proceeds of the assets, range from 0.1%-7%, court	distributed to creditors. Specific amounts regulated by Ministry of	no means of sustaining the procedure costs, the costs will be
A combination		Distribution to decultors	can adjust if exceeds EUR 50,000	Justice	sustained by a national fund.
Poloaco	Dood of discharge or bu filling the 's	2 year limit on claims (from the time	Liability is subject to limitation to	In relation to breach of duty, related	Onco IOH have left office and
Release None/other	Deed of discharge or by filing their final returns	3 year limit on claims (from the time the victim becomes aware of the	Liability is subject to limitation up to two years after the claimant was	In relation to breach of duty -released if damage could not be prevented in	Once IOH have left office and insolvency procedure has been
Court	Tetario	damage and the act).	aware of its right, case is limited to	OH duties	closed
Time			two years after the IOH has ceased	In relation to liability to a creditor -	
			to carry out their functions.	released if OH proves he could not	
				have known that the insolvency	
				estate would not be sufficient for satisfaction of the creditor's claim	
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Training / CPE Johns expected to participate in lectures, seminars, conferences and book publishing. IOH needs to achieve CPE credits level each year. Sanction for Acting as Unauthrosised OH Must conduct a liability insurance. Bonding / Liability Insurance. Bonding / Liability Insurance. May have Must conduct a liability insurance. Mist have CRemuneration Time costs Ke generent. It was proved. The Bar insurance is up to EUR 1m Costs Ke of assets Ko of assets Release Release If damage could not be low profer quirements, although and then on thourly rates as to the value of assets subject to court approval. Within 14 days of final report No statutory release. Court will approve certain acts of the IOH (e.g. being submitted to the Court Within 14 days of final report How prove pera training Undergo continued ordestation requires exist for lawurs and professional education requires 50 points within a relicensing period (1 point for 1 hour listeneded by the IOH, 2 points for 1 hour listeneded by the IOH, 2 points for 1 hour stugeth by the IOH, 2 points for 1 hour stugeth by the IOH, 2 points within a relicensing period (1 point for 1 hour listeneded by the IOH, 2 points within a relicensing period (1 point for 1 hour listeneded by the IOH, 2 point with the 10H, 2 point with the 10H, 2 point with a relicensing period (1 point for 1 hour listeneded by the IOH, 2 point with the 10H, 2 point with the 1 point with 1 point with the 1 point with the 1 point with 1 point with 1 point with 1 point wit
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