

INSOL Europe
Insolvency Office Holders Forum - Draft Working Paper

	Germany	United Kingdom	France	Italy	Spain
Size (No. of OH's) Size>2,000 500<=Size<=2,000 Size<500	3,410	1,745	Judicial Administrators - 111 Judicial Liquidators - 309	Institute of Chartered Accountants - 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 Corporate 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 practitioners - 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	-Institute of Chartered Accountants -Bar Association	-Bar association or -Association of Economists.
Entry requirements for OH No qualification required Professional/other 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 practitioner.
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 Unauthorised 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 assets - 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 contracts	Discharged from liability when they have left office.	Not known	None	Not known

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	Netherlands	Sweden	Belgium	Austria	Denmark
Size (No. of OH's) Size>2,000 500<=Size<=2,000 Size<500	c.800	400	N/K	1,296	N/K - but Attorneys act as OH, 6,000 Attorneys admitted to the bar.
Appointment Court only Ratified by the Court A combination of methods of appointment	Court	By court	Court	Court	Court
Person and/or Corporate OH Corporate only Corporate or Person Person only	Person	Person	Person	Person, Corporate	Person
Types of firms Small specialist Sole to medium/large	Large law firms - sole practitioners. Many medium sized restructuring/insolvency firms	Small to large law firms	Large - small law / accountancy firms	Small/Niche firms	Sole practitioners to large law firms
Professional Bodies	Courts have discretion in appointing a bankruptcy trustee. Most insolvency practitioners members of INSOLAD. Dutch lawyers are admitted to the Dutch Bar Association and subject to disciplinary law	Swedish bar Association and also Swedish Reorganization and Administrator's Organization.	None insolvency specific but typically subsets of: - Attorneys (e.g. Brussels bar - Accountants (Associations of Accountants and Tax Consultants) - Auditors (Association of Auditors) - Bailiffs (National Chamber of Bailiffs) - Notaries Public (National Chamber of Notaries Public	Not specific Tax, Law, Audit, Other professionals	The Association of Danish Insolvency Practitioners Work and standards of OHs overseen by Bankruptcy Court and Danish Bar Association respectively.
Entry requirements for OH No qualification required Professional/other qualification required Professional qualification required and/or pass insolvency exam	Most district courts require that these lawyers: - have completed one or more specialist courses on insolvency law provided by the Dutch Association of Insolvency Practitioners - can demonstrate proven experience in dealing with insolvency law.	Member of the Swedish Bar Association, unless a member of Akordcentralen (but must be acting practitioner for several years). Different regions require different levels of experience.	Bankruptcy liquidations - Court list Judicial administrator - no specific conditions / training Debt mediator - 3 years' relevant experience or 60 hours' special training Liquidator - Court must approve Provisional administrator - appointed by president of the court	No specific qualification to become IOH. Normally professionals (Accountant or Lawyer). Trustworthy person with knowledge of business and insolvency	Attorney A non-compulsory certification scheme by The Association of Danish Insolvency Practitioners is also available.
Training / CPE No requirements	Must demonstrate they are maintaining continuing professional education.	18 hours of structured learning per year.	None insolvency specific	4 annual seminars	Min. 54 units (each of 45 minutes) of continuing education over a 3 year period.
Sanction for Acting as Unauthorised OH	Issue unknown in Netherlands as district courts have sole and absolute discretion in appointing IOHs	N/A - court appointments	N/A - all appointments are made by the Court	Liable for monetary losses as a result of dereliction	None
Bonding / Liability insurance May have Must have	Requirement of the DBA that lawyers hold professional indemnity insurance	Professional Indemnity Insurance a requirement	No obligation, however, strongly recommended.	€0.4 - 2.4m	Professional Indemnity Insurance a requirement
Remuneration Time costs % of assets Other A combination	Proceeds of the assets of the insolvent estate Basis of time and hourly rates determined by the courts	Proceeds of assets. If no funds available Swedish state will pay (set amounts).	Bankruptcy Liquidator - % of assets Judicial administrator - time costs Debt mediator - fixed amount determined royal decree Liquidator - time costs Provisional administrator - time costs	% of assets Decreasing pro-rata	Approved by the Bankruptcy Court
Release None/other Court Time	IOH cannot be discharged from liability	Not known	Once liability and taxes of OH's fees and costs are settled?	None but general supervision of OH by Court	Three years from time the loss was incurred.

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	Ireland	Greece	Portugal	Czech Republic	Romania
Size (No. of OH's) Size>2,000 500<=Size<=2,000 Size<500	656	N/K	354	500	3724 (2814 active)
Appointment Court only Ratified by the Court A combination of methods of appointment	Debtor/creditor/petitioner nominates, court makes the appointment	Court	Court - creditors can freely substitute the appointed IOH	Court	Court
Person and/or Coporate OH Corporate only Corporate or Person Person only	Person	Person, Corporate	Person	Person, Corporate	Corporate
Types of firms Small specialist Sole to medium/large	Accountancy firms / sole practitioners	Sole practitioners	Sole practitioners/partnership	Large to sole practitioners. Attorneys / Tax Advisors / Auditors	Professional limited liability companies, personal limited liability companies and individual practices
Professional Bodies	IOHS are usually accountants and member of either Chartered Accountants Ireland or the Association of Chartered Certified Accountants	The Bar Code of Lawyers	Regulated and supervised by the Commission for the Supervision of Court Auxiliaries	Chamber of Specialists for Crisis Management and Insolvency in the Czech Republic Association of Insolvency Administrators	The National Organisation for Insolvency Practitioners (UNPIR)
Entry requirements for OH No qualification required Professional/other qualification required Professional qualification required and/or pass insolvency exam	1. Member of a prescribed accountancy body and hold a practicing certificate issued by that body 2. A solicitor who holds a practicing certificate issued by the Law Society of Ireland 3. A member of a professional body recognised by a supervisory authority 4. A person qualified under the laws of another EEA state 5. A person with practical experience of winding ups and knowledge of relevant laws	Attorney at law with min. 5 years' experience.	1. Academic degree and professional experience 2. Training period 3. Approval in the final exam organised by the CSCA	Masters degree in Economics or Law Pass Special Insolvency Exam (written and oral) 3 years' relevant professional practice Clean record	1. Economic or law degree 2. 3 years of experience in law or economic field 3. Pass exam organised by the National Training Institute for Insolvency Practitioners
Training / CPE No requirements	CPD regulation: 20 hours of structured and 50 hours of unstructured	None	Have to attend training courses and seminars, CSCA yet to enact the regulation regarding continuing professional education	General statutory obligation of continuous professional education	20 hours per year, which can be obtained by participating in The National Training Institute for Insolvency Practitioners' seminars or conferences
Sanction for Acting as Unauthorised OH	Liable on summary conviction: fine up to EUR 5,000 and/or imprisonment up to 12 months Liable on conviction on indictment: fine up to EUR 500,000 and/or imprisonment up to 10 years	Rare as Court appoints OH but in such cases, Code of Lawyers applies.	Fine up to EUR 250,000. Imprisonment up to 2 years. Unlikely as IOHs appointed from an official list.	Suspension or termination of right to practise. Cancellation of licence. Fine max. 200,000 CZK.	Criminal sanctions - unlikely as IOH registers are publicly accessible
Bonding / Liability insurance May have Must have	Person must have professional indemnity insurance	No requirement	Do not need to hold a bond but must have an insurance policy for civil liability.	Min. 1m CZK multiplied by number of OHs	No surety requirements that an IOH maintain in respect of appointments. National Organisation for Insolvency Practitioners requires members to hold professional indemnity insurance
Remuneration Time costs % of assets Other A combination	Basis of time	Dependent on: -Size of estate -Time costs -Distribution to creditors	Fixed remuneration EUR 2,000. Variable remuneration is % of value obtained from the proceeds of the assets, range from 0.1%-7%, court can adjust if exceeds EUR 50,000	Determined by number of reviewed, registered claims and proceeds distributed to creditors. Specific amounts regulated by Ministry of Justice	Proceeds of assets. If the procedure lacks assets and has no means of sustaining the procedure costs, the costs will be sustained by a national fund.
Release None/other Court Time	Deed of discharge or by filing their final returns	3 year limit on claims (from the time the victim becomes aware of the damage and the act).	Liability is subject to limitation up to two years after the claimant was aware of its right, case is limited to two years after the IOH has ceased to carry out their functions.	In relation to breach of duty -released if damage could not be prevented in OH duties In relation to liability to a creditor - released if OH proves he could not have known that the insolvency estate would not be sufficient for satisfaction of the creditor's claim	Once IOH have left office and insolvency procedure has been closed

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	Slovak Republic	Luxembourg	Bulgaria	Lithuania	Latvia	Estonia
Size (No. of OH's) Size>2,000 500<=Size<=2,000 Size<500	1769	30	240	540 individuals 338 legal persons	330	N/K
Appointment Court only Ratified by the Court A combination of methods of appointment	For bankruptcy process random electronic selection is performed. For restructuring the debtor can choose.	Court	Bankruptcy Court	Court	Nominated by Insolvency Administration - court then appoints the IOH	Court
Person and/or Corporate OH Corporate only Corporate or Person Person only	Person, Corporate	Person	Person	Person, Corporate	Person	Person
Types of firms Small specialist Sole to medium/large	legal person, lawyer, tax advisor	Medium - small law firms, use of independent firms when required	Sole practitioners	Sole practitioners	Small/Medium firms / sole practitioners	Sole practitioners to large law firms
Professional Bodies	Association of Insolvency Office Holders in the Slovak Republic (but membership is voluntary).	No specified bodies, either members of the Bar Association or of the IRE (Institute of Auditors)	Ministry of Justice	Authority of Audit, Accounting, Property Valuation and Insolvency (part of Ministry of Finance)	The IOH Association performs training, licensing, relicensing, suspension and termination of licenses	The Chamber Estonian Bar Association Estonian Board of Auditors
Entry requirements for OH No qualification required Professional/other qualification required Professional qualification required and/or pass insolvency exam	University education in law or economics, pass exam prescribed by the Ministry and training.	No specific qualifications	- Independent - Postgraduate degree in Economics or Law and 3 years' service in the field of his speciality - Passing of examination under Art. 655a, Para 1	1. Be of good repute 2. Hold a social science degree or equivalent degree in law or economics or a lawyer's professional qualifications degree 3. Have a work record of at least five years as a head of an enterprise over the last seven years 4. Pass a qualification exam 5. Have a command of the Lithuanian language	Licensed by the Association of Certified Insolvency Administrators of Latvia - must pass an exam	Bankruptcy Act (BA) - Training and exam (except for Advocates, auditors and bailiffs). Reorganisation Act (RA) and Debt Restructuring and Debt Protection Act (DRDPA) - Trusted by the Court and the Debtor
Training / CPE No requirements	IOHs expected to participate in lectures, seminars, conferences and book publishing. IOH needs to achieve CPE credits level each year.	No Specific requirements, although some requirements exist for lawyers/accountants, but this is not linked to the practice	1 annual education course	At least 24 hours per year training	Undergo continued professional education - require 50 points within a relicensing period (1 point for 1 hour listened by the IOH, 2 points for 1 hour taught by the IOH)	40 hours per year
Sanction for Acting as Unauthorised OH	Civil offence of EUR 5,000	No sanction -but as appointed by the Court or suggested by the Financial Regulator they cannot be unauthorised person	Imprisonment up to 1 year or fine of BGN 100 - 300	Not possible	Practically impossible for an individual who is not properly authorised IOH to be able to act - due to publicly accessible register and procedure of appointment	Rare as Court appoints OH but in such cases, civil liability for damages
Bonding / Liability insurance May have Must have	Must conduct a liability insurance agreement.	No specific figure for lawyers. No obligation for indemnity insurance. The Bar insurance is up to EUR 1m	BGN 10,000 for one insurance event BGN 25,000 in aggregate for all claims	Compulsory professional civil liability insurance.	The minimum limit on the extent of insurance cover must be EUR 42,600	BA - Min €63,910
Remuneration Time costs % of assets Other A combination	Lump sum fee initially and then on the value of assets subject to court approval.	Ruled by grand-ducal decree dated 18 July 2003. Big cases, the Court may accept provisions and work performed on hourly rates	Time costs % of assets	Assets Time costs	1. Insolvency estate 2. Financial means provided by creditors 3. Insolvency proceedings deposit	Time costs Scaled rate based on estate size % of claims reorganised
Release None/other Court Time	Released if damage could not be prevented in OH duties. In relation to liability to a creditor - released if OH proves he acted with professional due.	No statutory release. Court will approve certain acts of the IOH (e.g. disposal of assets.)	Within 14 days of final report being submitted to the Court (provided no objections)	IOH must compensate all losses.	If losses are established by a court judgement, then the general statute of limitation is applicable to claims against the IOH	None

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