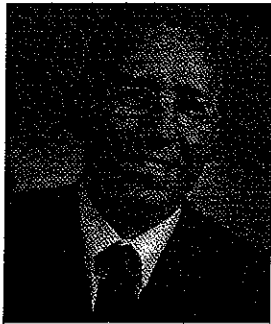


Smaller Practice Feature

Quality Management Meets Competition



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Nowadays, small and medium sized insolvency firms find themselves coping with increasing competition for insolvency work. This highlights

the importance of two issues: the need to enhance efficiency within the firm, and the need to leverage off those efficiency improvements when competing for insolvency work.

In Germany, Austria and Switzerland more and more small and medium sized insolvency administration firms are applying for quality management certification based on internationally acknowledged ISO 9001 standards, customized for the specific requirements in handling insolvency cases.

What was up until a few years ago a prerogative reserved for industrial companies, is now being increasingly availed of by lawyers, tax consultants and specialized bankruptcy practitioners.

Certification process

The certification process begins with a critical verification and examination of internal working procedures. These are fully described in a quality management manual.

"This requires the involvement of all parties concerned in the working process. This is the only way to ensure that all practitioners align themselves with and meet the requirements of the quality management system, which is determined internally and reviewed by a third party," says Oliver Bauer of Derra, Meyer & Partner. Derra, Meyer & Partner operates in eleven locations in Germany, Italy and Poland specialising in domestic and cross-border insolvency administration and counselling.

The preparation of a management manual also allows the documentation of the processes which occur in every insolvency procedure. This ensures that new practitioners can easily and quickly follow the processes. It also helps smaller firms to handle more complex processes. *"This eventually saves precious time and money,"* says the Munich insolvency practitioner Hanns Pöllmann, who has dealt with the issue of quality management and certification since 2005, and who has been certified since September 2008 by the German Gesellschaft zur Zertifizierung von Managementsystemen DQS.

DQS is one of the few accredited and authorised official certification bodies in Germany. It doesn't only review the management manuals issued by practitioners' firms and their

compliance with the standards assessed by the ISO 2001 Quality Management specifications. It also files the annual audit reports, which are required to maintain the certification.

Some consulting firms specialize in supporting practitioners in the preparation of the quality manual and but also the follow up phase after receiving certification. For example the STP Consulting, through its Quality management system "InsO 2001" (especially addressed to insolvency practitioners), has developed a recognized and externally-verifiable standard for activities carried out by a insolvency practitioner.

DIRO, a certified international lawyers' network made up of small and medium sized law firms working Europe-wide, many of which operate in the sector of insolvency administration and have already been certified, has a different approach. Anton Schmid, managing director of DIRO, says that: *"We have worked out a common certification project with standards and specifications applicable to all our members and we allow each firm to decide how to implement and maintain such standards. This not only improves each single firm but also guarantees a uniform quality and ensures that procedures are handled under identical aims throughout the network".*

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It Begins With Service

Quality Management Meets Competition (continued)

Advantages and costs of certification

The advantages of certification are numerous and obvious: internal procedures become more transparent and therefore also visible and understandable to third parties. Law Courts have objective criteria to use when choosing to make appointments from among a number of qualified insolvency practitioners. Quality management therefore has both internal benefits for insolvency firms and external benefits for clients and national insolvency regimes.

In Germany, where insolvency practitioners are appointed by independent courts, there is currently an ongoing debate on the criteria which courts should follow while choosing “eligible” insolvency practitioners. According to a judgment of the German Constitutional Court (*Bundesverfassungsgericht*) each “eligible” applicant has an equal right to be chosen from the so-called registered lists. Many courts have developed checklists which - among other things - require proof of a certified and customized quality management system in compliance with specific requirements.

Accordingly, it is not surprising that the German Association of Insolvency Administrators (*Verband der Insolvenzverwalter Deutschlands e.V. – VID*) 2008 has decided that its over four hundred current members (representing about one fifth of the insolvency practitioners

in Germany) should obtain certification from an independent and officially accredited certification body by December 31st, 2010. Dr. Daniel Bergner, Managing Director of VID in Berlin, reports that 150 members have already been certified or are shortly about to be certified.

Austrian courts are a bit more reluctant than their German counterparts in this regard, and do not require quality certification. Dr. Christof Stapf, an insolvency practitioner in Vienna says that his firm does not cite it quality management certification when applying for nomination. However, he believes that this situation will change.

The expenses associated with a certification may vary quite a lot, depending on the organisation of the firm. The charges for a certification (i.e. costs that arise through the engagement of an outside auditor) are between €3.000 and €10.000 for the verification of the manual and a yearly fee of €1.500 for the ongoing supervision. This does not, of course, take into account the internal costs that each firm incurs in for processes such as the preparation of the manual and its constant updating.

Time is also a factor. Usually it takes about six to eight months to obtain certification. Nevertheless, the German experience has been that resources and cost of obtaining and maintaining certification are a good investment.

INSOL Academics Steering Committee

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The INSOL Academics Steering Committee has been convening between INSOL conferences and the ancillary Academic Group meetings. The late evening/early morning meetings by teleconference of members from all hemispheres are ably chaired by Professor Ian Fletcher, University College London.

A major item for our recent committee deliberations has been planning for the INSOL 2009 Academics' meeting. Discussion has centred on potential themes and presenters of papers. The June meeting will bring together speakers from countries such as the Netherlands, the United Kingdom, South Africa, Australia, and Canada. The topics addressed will include:

- To rescue or not to rescue?
- Personal bankruptcy issues
- Corporate groups
- Insolvency law reform; and
- Global Principles of Insolvency Law

The network of academics that has been developed through INSOL has facilitated comparative research projects by its members and others over the years. In the forthcoming personal bankruptcy session, Professor Harry Rajak (University of Sussex) and Professor Donna McKenzie Skene (University of Aberdeen) will present findings from their research into the swelling of and exemptions from the insolvent estate. This project has been aided by the responses to surveys provided by Academic Group colleagues.

In addition, the Committee has discussed how best to increase the membership of the Academic Group from jurisdictions not currently well represented at its gatherings. The group would welcome enquiries or suggestions on this from INSOL members. It may also be useful to bring new perspectives through introducing more multi-disciplinarity to its deliberations. It was good to welcome a sociologist, Professor Terence Halliday, Senior Research Fellow, American Bar Foundation, to the Shanghai meeting last September. It would be interesting to enrich the analysis and understanding of the regularity perspective on insolvency and restructuring provided by law professors with a commercial point of view from accounting, economics and finance academics. A broader representation would enrich understanding and hence published research on insolvency-related issues.

The Committee has also been updated on related INSOL activities such as the 2009 Global Insolvency Practice Course, successful completion of which results in the qualification of Fellow of INSOL International. This advanced educational qualification focuses on international insolvency, rather than, say, an understanding of different national insolvency regimes.

Another INSOL activity of particular interest to the academics is INSOL's publication, the *International Insolvency Review*. It is published quarterly by Wileys and provides a review of recent developments in international insolvency. Members of the Academics' Group make substantial contributions through the submission and peer-reviewing of articles, case comments and book reviews.

Members of the Academics Group look forward to meeting their INSOL colleagues in Vancouver.