

SMALLER PRACTICE FEATURE

Insolvency – Creditors' Rights Worldwide



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How is a claim filed in an insolvency procedure in Russia? Does an insolvency court in New Zealand take into consideration a creditor's proposal related to the appointment of a Liquidator? How may a liquidator be replaced in a compulsory insolvency proceeding in Hong Kong? – These and many other questions frequently posed by creditors around the world will be answered in the INSOL publication "Creditor's Rights in Insolvency Proceedings- A Practical Guide" that will be published in May this year.

This publication comes from the "Smaller Practice Issues Committee". Therefore, it focuses particularly on the needs of smaller practices and firms. Some of the authors are actually members of the Committee.

The authors come from about 20 different Countries, selected on the basis of their economic importance or legal significance: the USA, Canada, Mexico, Brazil, the British Virgin Islands, the UK, Germany, Poland, Russia, France, Spain, Italy, South Africa, UAE, Ghana, India, China, Hong Kong, Japan, Indonesia, Australia and New Zealand. By using a common template for each country, the publication allows easy comparisons between the current legal systems in the different countries.


The publication has been designed to give readers prompt and basic information about the position of secured and unsecured creditors in insolvency proceedings worldwide, how they can actively participate in such proceedings and what they have to do in order to make the most of their claims against the debtor.

It is not limited to a mere description of the legal framework: a lot of practical advice is also included, covering creditors' rights and all the different steps and phases of insolvency proceedings, especially those of companies, smaller businesses and of consumers.

A few examples from the draft phase of the publication illustrate the variety of issues that can face creditors from country to country.

Creditors' rights before an insolvency proceeding is opened

In some countries (especially those based on common-law jurisdictions), creditors have considerable power to influence the progress of the insolvency proceeding right from the start; for example, in the preliminary phase, they may be able to nominate a trustee or a liquidator, who afterwards only needs to be formally empowered by the Court. In such cases it's quite appropriate to refer to these as "creditor-conducted proceedings". But in most of the other countries creditors do not hold such a strong position.

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