



Restructuring & Insolvency

in 52 jurisdictions worldwide

Contributing editor: Bruce Leonard

2013



Published by
Getting the Deal Through
in association with:

Andreas Neocleous & Co LLC
Bloomfield Advocates & Solicitors
Bofill Mir & Alvarez Jana
Bowman Gilfillan
Cassels Brock & Blackwell LLP
Chancery Chambers
Charles Adams Ritchie & Duckworth
CMS Rui Pena & Arnaut
Dundas & Wilson
Felsberg, Pedretti e Mannrich Advogados e
Consultores Legais
Forsyth Abogados
Freshfields Bruckhaus Deringer
Freshfields Bruckhaus Deringer LLP
Headrick Rizik Alvarez & Fernández
J Sagar Associates
Kinstellar
Kleyr Grasso Associés
KNP LAW Nagy Koppany Varga and Partners
Law Firm Varul
Lipman Karas
Logos Legal Services
Mamić Perić Reberski Rimac Law Firm LLC
Motieka & Audzevicius
O'Melveny & Myers
Oscós Abogados
Osei-Ofei Swabi & Co
Patton Moreno & Asvat
Paul, Weiss, Rifkind, Wharton & Garrison LLP
PotamitisVekris
SCP Miriana Mircov Relicons SPRL
Setterwalls
SyCip Salazar Hernandez & Gatmaitan
Taxgroup Pravno Svetovanje d.o.o.
Vasil Kisil & Partners
Walder Wyss Ltd
Waselius & Wist
Weerawong, Chinnavat & Peangpanor Ltd
WongPartnership LLP
Yoon & Yang LLC
Zaid Ibrahim & Co

Restructuring & Insolvency 2013

Contributing editor

Bruce Leonard
Cassels Brock & Blackwell LLP

Business development managers

Alan Lee
George Ingledew
Robyn Horsefield
Dan White

Marketing manager

Rachel Nurse

Marketing assistants

Megan Friedman
Zosia Demkowicz
Cady Atkinson
Robin Synnot

Administrative assistants

Parween Bains
Sophie Hickey

Marketing manager

(subscriptions)
Rachel Nurse
subscriptions@
gettingthedealthrough.com

Assistant editor

Adam Myers

Editorial assistant

Lydia Gerges

Senior production editor

Jonathan Cowie

Chief subeditor

Jonathan Allen

Senior subeditor

Caroline Rawson

Subeditor

Anna Andreoli

Editor-in-chief

Callum Campbell

Publisher

Richard Davey

Restructuring & Insolvency 2013

Published by
Law Business Research Ltd
87 Lancaster Road
London, W11 1QQ, UK
Tel: +44 20 7908 1188
Fax: +44 20 7229 6910
© Law Business Research Ltd
2012

No photocopying: copyright
licences do not apply.

ISSN 1468-3180

The information provided in this
publication is general and may not
apply in a specific situation. Legal
advice should always be sought before
taking any legal action based on the
information provided. This information
is not intended to create, nor does
receipt of it constitute, a lawyer-client
relationship. The publishers and
authors accept no responsibility for
any acts or omissions contained
herein. Although the information
provided is accurate as of November
2012, be advised that this is a
developing area.

Printed and distributed by
Encompass Print Solutions
Tel: 0844 2480 112

Law

Business

Research

Global Overview James Watson <i>Freshfields Bruckhaus Deringer LLP</i> and Alan W Kornberg and Claudia R Tobler <i>Paul, Weiss, Rifkind, Wharton & Garrison LLP</i>	3
Australia Scott Foreman and Lucas Arnold <i>Lipman Karas</i>	4
Austria Friedrich Jergitsch, Michael Raninger and Florian Knotzer <i>Freshfields Bruckhaus Deringer LLP</i>	16
Bahrain Hamek S Shoker <i>Freshfields Bruckhaus Deringer LLP</i>	25
Barbados Trevor Carmichael and Lauren McIntosh <i>Chancery Chambers</i>	32
Belgium Geert Verhoeven and Wim Dedecker <i>Freshfields Bruckhaus Deringer LLP</i>	38
Botswana Kwadwo Osei-Ofei <i>Osei-Ofei Swabi & Co</i>	49
Brazil Thomas Benes Felsberg, Paulo Fernando Campana Filho and Bruno Kurzweil de Oliveira <i>Felsberg, Pedretti e Mannrich Advogados e Consultores Legais</i>	54
Canada E Bruce Leonard, David S Ward, Larry C Ellis and Kelly A Gerra <i>Cassels Brock & Blackwell LLP</i>	66
Cayman Islands Graham F Ritchie QC and Rebecca Hume <i>Charles Adams Ritchie & Duckworth</i>	74
Chile Octavio Bofill, Jorge Lembeye, Edder Cifuentes and Andrea Alarcón <i>Bofill Mir & Alvarez Jana</i>	83
China Melissa Thomas and Christian Zeppezauer <i>Freshfields Bruckhaus Deringer LLP</i>	91
Croatia Vladimir Mamić and Goran Jujnović Lučić <i>Mamić Perić Reberski Rimac Law Firm LLC</i>	100
Cyprus Maria Kyriacou and Elias Neocleous <i>Andreas Neocleous & Co LLC</i>	107
Czech Republic Růžena Trojánková and Tomáš Osička <i>Kinstellar</i>	115
Dominican Republic Mary Fernández and Hipólito García <i>Headrick Rizik Alvarez & Fernández</i>	125
England & Wales Ken Baird, Catherine Balmond and Victoria Cromwell <i>Freshfields Bruckhaus Deringer LLP</i>	131
Estonia Paul Varul and Peeter Viirsalu <i>Law Firm Varul</i>	147
European Union Catherine Balmond and Ben Silver <i>Freshfields Bruckhaus Deringer LLP</i>	155
Finland Lauri Peltola and Timo Lehtimäki <i>Waselius & Wist</i>	164
France Emmanuel Ringeval, Alan Mason and Nicolas Morelli <i>Freshfields Bruckhaus Deringer LLP</i>	170
Germany Franz Aleth <i>Freshfields Bruckhaus Deringer LLP</i>	181
Greece Stathis Potamitis, Ioannis Kontoulas and Eleana Nounou <i>PotamitisVekris</i>	198
Hong Kong Mark Fairbairn, Andrew Payne and Dirk Behnsen <i>O'Melveny & Myers</i>	206
Hungary Kornélia Nagy-Koppány, Abigél Csurdi and Éva Németh <i>KNP LAW Nagy Koppány Varga and Partners</i>	216
Iceland Erlendur Gíslason, Ólafur Eiríksson, Heiðar Ásberg Atlason and Heiðar Örn Stefánsson <i>Logos Legal Services</i>	225
India Sandeep Mehta <i>J Sagar Associates</i>	234
Italy Raffaele Lener and Giovanna Vigliotti <i>Freshfields Bruckhaus Deringer LLP</i>	245
Japan Kazuki Okada and Shinsuke Kobayashi <i>Freshfields Bruckhaus Deringer</i>	263
Korea Sang Goo Han, Hyung Bae Park and Yoori Choi <i>Yoon & Yang LLC</i>	278
Lithuania Emil Radzihovskiy, Giedrius Kolesnikovas and Beata Kozubovska <i>Motieka & Audzevicius</i>	286
Luxembourg Marc Kleyr <i>Kleyr Grasso Associés</i>	297
Malaysia Peh Lee Kheng, Khoo Kay Ping and Effendy bin Othman <i>Zaid Ibrahim & Co</i>	308
Mexico Darío U Oscós C and Darío A Oscós Rueda <i>Oscós Abogados</i>	321
Netherlands Michael Broeders <i>Freshfields Bruckhaus Deringer LLP</i>	332
Nigeria Dayo Adu <i>Bloomfield Advocates & Solicitors</i>	342
Panama Ivette E Martínez S <i>Patton Moreno & Asvat</i>	349
Peru Guillermo Auler <i>Forsyth Abogados</i>	358
Philippines Ricardo Ma PG Ongkiko, Anthony W Dee and Russel L Rodríguez <i>SyCip Salazar Hernandez & Gatmaitan</i>	367
Portugal Nuno Pena, Joaquim Shearman de Macedo and Andreia Moreira <i>CMS Rui Pena & Arnaut</i>	379
Romania Lavinia Olivia Iancu <i>SCP Miriana Mircov Relicons SPRL</i>	390
Russia Dmitry Surikov, Maria Zaitseva and Svetlana Tolstoukhova <i>Freshfields Bruckhaus Deringer LLP</i>	399
Scotland Claire Massie <i>Dundas & Wilson</i>	412
Singapore Sean Yu Chou, Manoj Pillay Sandrasegara and Mark Choy <i>WongPartnership LLP</i>	426
Slovenia Miha Mušič and Vladka Plohl <i>Taxgroup Pravno Svetovanje d.o.o.</i>	434
South Africa Claire van Zuylen <i>Bowman Gilfillan</i>	443
Spain Eduard Arruga and Natalia Gómez <i>Freshfields Bruckhaus Deringer LLP</i>	454
Sweden Odd Swarting and Ellinor Rettig <i>Setterwalls</i>	464
Switzerland Christoph Stäubli <i>Walder Wyss Ltd</i>	473
Thailand Rapinnart Prongsiriwattana, Suntus Kirdsinsap and Bongkarn Jiraboonsri <i>Weerawong, Chinnavat & Peangpanor Ltd</i>	486
Ukraine Yaroslav Teklyuk and Valeriia Tryfonova <i>Vasil Kisil & Partners</i>	493
United Arab Emirates Pervez Akhtar, William Coleman and Jane Sohn <i>Freshfields Bruckhaus Deringer LLP</i>	508
United States Alan W Kornberg and Claudia R Tobler <i>Paul, Weiss, Rifkind, Wharton & Garrison LLP</i>	517
Quick Reference Tables	526

Hungary

Kornélia Nagy-Koppány, Abigél Csurdi and Éva Németh

KNP LAW Nagy Koppany Varga and Partners

1 Legislation

What legislation is applicable to insolvencies and reorganisations?
What criteria are applied in your country to determine if a debtor is insolvent?

Act XLIX of 1991 on Bankruptcy Proceedings and Liquidation Proceedings (the Bankruptcy Act) governs insolvencies and reorganisations. For procedural aspects not covered by the Bankruptcy Act, Act III of 1952 on the Code of Civil Procedure applies, particularly, the special provisions of non-litigious civil proceedings.

The court declares the debtor insolvent if:

- the debtor has failed to settle or contest (in writing) its previously uncontested or acknowledged contractual debt exceeding 200,000 forints within 20 days of the due date, and has not made the payment despite the creditor's written demand after this period;
- the debtor has failed to settle its debt exceeding 200,000 forints within the deadline specified in a final and binding court decision or order for payment;
- execution against the debtor was unsuccessful;
- the debtor has not fulfilled its payment obligation despite the composition agreement reached in the bankruptcy or liquidation proceedings;
- the court terminated the previous bankruptcy proceeding (in the absence of a settlement); or
- the debtor's debts exceed its assets in the proceeding initiated by the debtor or by the receiver, or the debtor was or will presumably be unable to settle its debts on the due date, and in the proceeding initiated by the receiver, the debtor's owners fail – despite due notice – to provide a statement of commitment to guarantee the funds necessary to cover such debts when due; and
- the maximum 45-day deadline allowed by the court upon the debtor's request also expired.

2 Courts

What courts are involved in the insolvency process? Are there restrictions on the matters that the courts may deal with?

Insolvency proceedings are within the competence and jurisdiction of the county court based on the debtor's registered seat on the date of the filing of the petition. For 180 days after the registered seat is moved to another county, the proceedings remain in the competence and jurisdiction of the original county court.

Regarding the main and the territorial proceedings against business entities registered outside Hungary and falling under the scope of Council Regulation (EC) No. 1346/2000 of 29 May 2000 on insolvency proceedings (the Regulation), the Budapest Metropolitan Court has exclusive jurisdiction.

Otherwise no restrictions apply.

3 Excluded entities and excluded assets

What entities are excluded from customary insolvency proceedings and what legislation applies to them? What assets are excluded from insolvency proceedings or are exempt from claims of creditors?

Customary insolvency proceedings include business entities (within the meaning of the Bankruptcy Act, ie, companies, European companies, sole proprietorships, associations, foundations, etc, where the centre of main interests is located in the territory of the European Union) and their creditors.

Not qualifying as business entities, sole proprietors (natural persons performing regular business activities) are excluded from customary insolvency proceedings. Currently, Hungarian law does not allow individual insolvency proceedings. Local governments, which are subject to Act XXV of 1996 on the Debt Relief Procedure for Local Governments and central budgetary institutions are exempt from the scope of the Bankruptcy Act.

The Bankruptcy Act applies to Hungarian branch offices of foreign companies, insurance associations, associations and foundations only if the specific applicable legislation does not have other provisions. The specific respective legislations are the following:

- Act CXXXII of 1997 on Hungarian Branch Offices and Commercial Representative Offices of Foreign-Registered Companies;
- Act LX of 2003 on Insurance Institutions and the Insurance Business; and
- Act CLXXV of 2011 on the Right of Association, the Public Benefit Status and the Operation and Support of Civil Organisations.

All assets that the business entity owns (or manages) on the starting date of the proceeding and those it acquires thereafter during the proceeding fall within the scope of the bankruptcy and the liquidation proceeding, except:

- certain state-owned and public assets and assets serving public interests (monuments, water works, etc);
- employment related taxes and other dues;
- the employee's debts under execution; and
- assets in the debtor's possession, in respect of which the seller reserved the ownership right until the purchase price is paid in full.

4 Secured lending and credit (immoveables)

What principal types of security are taken on immoveable (real) property?

The principal type of security on immoveables is a mortgage, which generally entitles the creditor to seek satisfaction before court up to the amount of its claim against the property preceding other claims if the debtor does not pay. During liquidation proceedings, properties are sold by the liquidation administrator, and the mortgagee receives the purchase price less the cost of liquidation. Mortgage is established by registration in the Land Registry, while the real property is

left in the debtor's possession. A special subtype is an independent mortgage, which is independent from any personal claim, transferable and the creditor can obtain satisfaction only against the property.

Further types of security are the option to purchase and the redemption right, which are subject to the parties' written agreement, valid for a maximum of five years and must be registered in the Land Registry. Assignment is also often used as security, under which the transfer of claim is dependent upon the party's non-compliance.

5 Secured lending and credit (moveables)

What principal types of security are taken on moveable (personal) property?

Moveable property can also be subject to a mortgage, option to purchase, redemption right and assignment, as well as a pledge, which involves the transfer of the property to the creditor.

Similar to a pledge, another type of security on moveable property is the security deposit, which can only be taken on money, bank account credit balance, securities and other financial assets and loan receivables, and which does not necessitate court action for the creditor's satisfaction. Within three months of the start date of liquidation, the creditor can still directly obtain satisfaction from the security deposit, irrespective of the commencement of liquidation.

6 Unsecured credit

What remedies are available to unsecured creditors? Are the processes difficult or time-consuming? Are pre-judgment attachments available? Do any special procedures apply to foreign creditors?

For unsecured creditors, general court action and subsequent execution can be a more effective option than liquidation, even if these proceedings are usually more time-consuming. Creditors can immediately request execution (without court action) if the contract on which their claims are based was drawn up in a notarial deed and includes the subject matter, amount and the legal basis of the obligation, as well as the manner and deadline of performance.

Pre-judgment attachment is available if the creditor has initiated court proceedings, provided proof of the establishment, amount and expiry of the claim, and proved that satisfaction at a later date is likely to be compromised.

In principle, foreign creditors as plaintiffs must provide security to cover the costs of litigation when so requested by the defendant. Appointment of a delivery agent is also required. Otherwise, no special procedure applies to them, except if they intend to enforce a foreign judgment.

7 Voluntary liquidations

What are the requirements for a debtor commencing a voluntary liquidation case and what are the effects?

The debtor may commence voluntary liquidation if unwilling or, in cases where it is precluded by law (see question 9), or otherwise unable to initiate a bankruptcy proceeding. Filing the petition for voluntary liquidation is subject to the prior agreement of the debtor's supreme governing body exercising the members' rights. The debtor must notify the employees, the trade unions and the labour council of the filing. The petition is similar to that in bankruptcy proceedings, completed with the list of the debtor's financial service providers and bank account numbers. In the proceeding, the debtor must be represented by legal counsel. The debtor must pay 25,000 forints for publications in the Companies Gazette, and 50,000 forints or 25,000 forints as the respective administrative fee of liquidation of the debtor with or without legal personality.

The court examines the petition, and, if there are no grounds for dismissal without substantive review and the respective conditions are satisfied (see question 1), it declares the debtor insolvent and orders the liquidation. The date of publication of the final order on

liquidation in the Companies Gazette is the start date of the liquidation proceeding, as of which the debtor's name is appended with the words 'under liquidation'. The court appoints a liquidation administrator to take over the debtor's management and make all decisions and legal declarations on the debtor's behalf. The liquidation administrator collects and sells the debtor's assets, distributes the proceeds among the creditors and terminates the debtor's operation without succession.

8 Involuntary liquidations

What are the requirements for creditors placing a debtor into involuntary liquidation and what are the effects?

In the petition for liquidation, the creditor must specify the legal basis and the due date for the debt, and a summary of the reasons why it deems the debtor insolvent. Documents in support of the petition must be attached, including proof of delivery of the written demand sent to the debtor after 20 days of the due date (see question 1). This notice must indicate at least the legal basis, the sum and the due date, as well as a final date for payment, after which the creditor commences liquidation proceedings or enforces its claim through other legal means. In the liquidation proceeding, the creditor must be represented by legal counsel. The creditor must advance the costs of the commencement of the proceeding (see question 7).

Upon the creditor's request, the court can appoint a temporary administrator, until the decision on the liquidation has been made or only for as long as is necessary, to supervise the debtor's business activities if the creditor proved that satisfaction of its claim at a later date is likely to be compromised, provided proof of the establishment, the extent and the expiry of its claim, and advanced the costs of the temporary administrator's fee.

If there are no grounds for dismissal of the liquidation petition without substantive review, the court immediately notifies the debtor. The court also asks if the alleged debtor acknowledges the creditor's statements in the petition, or requests a stay of payment. The court also instructs the debtor to provide a list of its financial services providers and bank account information. If the debtor fails to respond to the court within eight days of receipt of the notification, its insolvency is presumed. If requested by the debtor, the court may allow the debtor a maximum of 45 days to settle its debt, except if the liquidation proceeding was preceded by the bankruptcy proceeding.

Finally, if the respective conditions are satisfied, the court declares the debtor insolvent and orders the liquidation.

9 Voluntary reorganisations

What are the requirements for a debtor commencing a formal financial reorganisation and what are the effects?

For financial reorganisation, the debtor may initiate bankruptcy proceedings if it was or is expected to become unable to settle its debts on the due date:

- unless already subject to previous bankruptcy proceedings;
- unless it was declared insolvent and liquidation was ordered;
- after satisfaction of creditors' claims remaining from previous bankruptcy proceedings;
- two years after the publication of the final court order on the termination of the previous bankruptcy proceedings; and
- one year after the publication of the final court order on the ex officio dismissal of its previous petition for bankruptcy proceedings.

Filing the petition for bankruptcy proceedings is subject to the prior agreement of the debtor's supreme governing body. The debtor must notify the employees, the trade unions and the labour council of the filing, as well as its financial service providers. The debtor must file the petition on a form, and attach among other things its annual account or interim balance sheet, the list of its creditors and debts,

its financial service providers and bank account information, and a description of its financial situation. The debtor must be represented by legal counsel. The debtor must pay 25,000 forints for publications in the Companies Gazette, and depending on whether it has a legal personality or not, 30,000 forints or 20,000 forints respectively as the administration fee of bankruptcy proceedings.

If there are no grounds for immediate dismissal of the petition, the court publishes the petition and the provisional stay of the debtor's payments within one business day in the Companies Gazette. After substantive review, if the respective conditions are satisfied, the court orders the opening of the bankruptcy proceeding and appoints the bankruptcy administrator to supervise the debtor's business activities. The date of publication of the final order on bankruptcy proceedings in the Companies Gazette is the starting date of the bankruptcy proceeding, as of which the debtor's name is appended with the words 'under bankruptcy proceeding', and the debtor is entitled to a 120-day stay of payment (moratorium).

Within 60 days of the start date, the debtor must call a creditors' meeting with the aim of concluding a composition agreement that specifies the conditions for settlement of the debtor's debts. The debtor must notify the court of the outcome of the meeting, and:

- if it was successful, the court approves the composition agreement and declares the proceeding concluded; or
- in the absence of a settlement, the court terminates the bankruptcy proceeding, declares the debtor insolvent and orders the liquidation.

10 Involuntary reorganisations

What are the requirements for creditors commencing an involuntary reorganisation and what are the effects?

As of 1 March 2012, creditors cannot commence the debtor's (involuntary) reorganisation.

11 Mandatory commencement of insolvency proceedings

Are companies required to commence insolvency proceedings in particular circumstances? If proceedings are not commenced, what liabilities can result?

Companies are normally under no statutory obligation to commence insolvency proceedings. If there is a risk of insolvency, the company's officers are required to perform their duties with priority for the creditors' interests. If the court establishes that the company's officers during the three years before the opening of the liquidation failed to comply with this obligation and thus decreased the company's assets or their value, creditors can move the court to order the satisfaction of the unpaid claims.

During winding-up proceedings, if the receiver concludes that the company's assets are insufficient to cover the creditors' claims and the members fail to supply funds within 30 days, the receiver must immediately file a petition for liquidation. In case of failure to commence or unreasonable delay in commencing liquidation, the liquidation administrator or the creditors can move the court to order the receiver to make a capital contribution consistent with the extent of the damage. The court may also order the receiver to be deprived of his or her fees due.

12 Doing business in reorganisations

Under what conditions can the debtor carry on business during a reorganisation? What conditions apply to the use or sale of the assets of the business? Is any special treatment given to creditors who supply goods or services after the filing? What are the roles of the creditors and the court in supervising the debtor's business activities?

As of the opening of bankruptcy proceedings, the debtor carries on business under the supervision of the bankruptcy administrator. During moratorium, payments from the debtor's assets and any

new commitments are subject to the administrator's authorisation, including performance of liabilities assumed with a view to carry on business. The debtor can give security to its new commitments only if approved by the creditors with voting rights, representing the majority of the claims. Creditors doing business with the debtor are not given any special treatment.

13 Stays of proceedings and moratoria

What prohibitions against the continuation of legal proceedings or the enforcement of claims by creditors apply in liquidations and reorganisations? In what circumstances may creditors obtain relief from such prohibitions?

During moratorium, the debtor cannot effect any payment for claims existing at the time of the opening of the bankruptcy proceedings, and creditors may not demand any such payment. The legal consequences of non-compliance with payment obligations or late payment do not apply. The enforcement of claims against the debtor is suspended, and the enforcement of these claims may not be ordered. Creditors cannot obtain satisfaction by virtue of a lien or mortgage or from other securities (except on the basis of security deposit agreements between certain financial institutions).

However, the debtor is not exempt from the payment of its employees' wages or salaries, employment-related taxes and other dues, severance pay, annuities, public utility fees, bank account administration fees, value added taxes and excise duties, etc.

As of the opening of the bankruptcy proceeding, the court terminates the liquidation proceeding previously commenced against the debtor and rejects any new petition for liquidation.

As of the opening of liquidation, claims relating to the debtor's assets under liquidation may be enforced only in the liquidation proceeding. Exception is made for security deposits, as creditors can obtain satisfaction independently of the proceeding from security deposits within three months following the start of the liquidation. Lawsuits and non-litigious proceedings commenced before the opening of liquidation can continue, but execution proceedings must be immediately terminated.

14 Post-filing credit

May a debtor in a liquidation or reorganisation obtain secured or unsecured loans or credit? What priority is given to such loans or credit?

During reorganisation, the debtor can obtain loans or credit with the approval of the bankruptcy administrator or if included in the composition agreement. Security is subject to the creditors' approval (see question 12) or the composition agreement.

The purpose of liquidation is not financial reorganisation. However, the laws do not prohibit the debtor from obtaining loans or credit provided that the creditors' committee approved the debtor's continuing business activities. Liquidation proceedings can also end with reorganisation and composition agreement.

The laws do not provide for any priority to such loans or credit; the parties may agree to special provisions in the composition agreement.

15 Set-off and netting

To what extent are creditors able to exercise rights of set-off or netting in a liquidation or in a reorganisation? Can creditors be deprived of the right of set-off either temporarily or permanently?

During moratorium in reorganisations, set-off may not be exercised against the debtor, but in pending court proceedings initiated by the debtor, the court may decide on set-off claims submitted before the opening of the bankruptcy proceedings. The moratorium does not affect the enforceability of the framework agreement on position netting if one or both of the parties belong to the list of financial

institutions specified in the Bankruptcy Act.

During liquidation, only those claims can be set off that have been registered by the liquidation administrator as recognised and have not been assigned after the opening of liquidation proceedings or, if the claim has occurred at a later date, subsequent to its occurrence. Executive officers and executive employees of the debtor, their close relatives and companions, business entities under majority influence and members of the debtor with majority influence are permanently deprived of the right of set-off. Although, as of the opening of the liquidation, claims relating to the debtor's assets under liquidation may be enforced only in the liquidation proceeding (see question 13), in pending court proceedings initiated by the debtor, the creditor may exercise its right of set-off with respect to those claims that existed at the time of the opening of liquidation, provided that the holder of the claim was the creditor at the time of the opening of liquidation.

If the creditor purchases the debtor's assets through the exercising of the option to purchase or the redemption right after the opening of the liquidation, the creditor may not exercise the right of set-off.

If an agreement on position netting was concluded before the opening of the liquidation, the creditor must notify the liquidation administrator of its net claim, and the liquidation administrator will enforce the net claim.

16 Sale of assets

In reorganisations and liquidations, what provisions apply to the sale of specific assets out of the ordinary course of business and to the sale of the entire business of the debtor? Does the purchaser acquire the assets 'free and clear' of claims or do some liabilities pass with the assets? In practice, does your system allow for 'stalking horse' bids in sale procedures and does your system permit credit bidding in sales?

In reorganisations, the sale of specific assets out of the ordinary course of business is subject to the bankruptcy administrator's authorisation and countersignature.

In liquidations, the liquidation administrator sells in open tenders or public auctions the debtor's assets (entire business) at the highest offered price.

In reorganisations, the purchaser does not acquire the debtor's assets 'free and clear'.

In liquidation, options to purchase, redemption rights and liens and mortgages cease at the time of the sale of the asset.

There are no specific laws and regulations on 'stalking horse' bids. Creditors purchasing assets may not reduce the purchase price by the amount of their claim against the debtor.

17 Intellectual property assets in insolvencies

May an IP licensor or owner terminate the debtor's right to use it when an insolvency case is opened? To what extent may an insolvency administrator continue to use IP rights granted under an agreement with the debtor? May an insolvency representative terminate a debtor's agreement with a licensor or owner and continue to use the IP for the benefit of the estate?

IP contracts in insolvencies are treated according to the general rules applicable to contracts.

In bankruptcy proceedings, during moratoria, contracts concluded with the debtor may not be terminated on grounds that the debtor commenced bankruptcy proceedings or failed to settle during a moratorium its debts incurred before the temporary stay of payment.

In liquidation, the liquidation administrator is entitled to terminate the debtor's contracts with immediate effect. Until then, the liquidation administrator as the debtor's representative can continue to use the IP rights, provided that the creditors' committee approved the debtor's continuing business activities. After termination, IP rights cannot be used for the benefit of the estate.

18 Rejection and disclaimer of contracts in reorganisations

Can a debtor undergoing a reorganisation reject or disclaim an unfavourable contract? Are there contracts that may not be rejected? What procedure is followed to reject a contract and what is the effect of rejection on the other party?

A debtor under reorganisation can undertake new commitments only with the bankruptcy administrator's authorisation. The administrator may not authorise unfavourable contracts, only such commitments that are necessary for the debtor's proper operation and the preparation of the reorganisation. The administrator can challenge the debtor's declarations and agreements that were made or concluded without its authorisation after the opening of the bankruptcy proceeding. Contracts concluded before bankruptcy proceedings cannot be terminated, but payments are subject to the administrator's authorisation.

In general, no contracts can be rejected.

No specific procedure applies to rejection. The administrator can challenge the contracts before court according to the general rules of invalidity under Act IV of 1959 on the Civil Code (the Civil Code). If successful, the state of affairs that existed before the conclusion of the invalid contract will be restored. The losing party can claim damages in the bankruptcy proceeding.

19 Arbitration processes in insolvency cases

How frequently is arbitration used in insolvency proceedings? What limitations are there on the availability of arbitration in insolvency cases? Will the court allow arbitration proceedings to continue after an insolvency case is opened?

Pursuant to the Civil Code, arbitration proceedings are available in lieu of litigation if at least one of the parties is professionally engaged in a business activity, if the legal dispute relates to that activity and if the parties can freely dispose of the subject of the proceeding. If the parties stipulated arbitration and one of them fails to fulfil a payment obligation under the contract, the other can initiate arbitration but arbitration will not replace bankruptcy or liquidation proceedings.

During bankruptcy or liquidation proceedings, proceeding with already pending arbitration is not prohibited, but enforcement and execution is subject to the same restrictions as those detailed under question 13.

20 Successful reorganisations

What features are mandatory in a reorganisation plan? How are creditors classified for purposes of a plan and how is the plan approved? Can a reorganisation plan release non-debtor parties from liability, and, if so, in what circumstances?

The reorganisation plan (composition agreement) must be in writing, signed by all parties, countersigned by the bankruptcy administrator and the creditors' committee and must include:

- the list of creditors that participated in the composition, their classification, the sums of their registered claims recognised or uncontested and the number of their voting rights;
- the settlement and restructuring programme approved by the creditors and the method of implementation and supervision;
- any modification of performance deadlines, any waiver or assumption of claims and all other factors deemed necessary for the purpose of restoring or preserving the debtor's solvency; and
- the name and mailing address of each creditor, and regarding creditors' committees and creditors' representatives, the specifics of their scope of representation.

Creditors have voting rights if they registered their claims within the prescribed time limit, paid the registration fee and their claim was registered as recognised or uncontested claims. They are classified as either secured or unsecured creditors. The composition agreement

must obtain the majority of the votes both secured and unsecured creditors.

The reorganisation plan is the debtor's agreement with the creditors on the conditions for a settlement to restore or preserve the debtor's solvency. Release of non-debtor parties from their liabilities falls outside the scope of the agreement.

21 Expedited reorganisations

Do procedures exist for expedited reorganisations?

There are no expedited bankruptcy proceedings in Hungary. However, simplified liquidation is possible if the debtor's assets do not cover the expected costs of liquidation or if the liquidation proceeding cannot be technically conducted due to insufficient records or bookkeeping, which may then have criminal consequences.

22 Unsuccessful reorganisations

How is a proposed reorganisation defeated and what is the effect of a reorganisation plan not being approved? What if the debtor fails to perform a plan?

In bankruptcy proceedings, during the first negotiation meeting the creditors can declare that they do not support the settlement plan. If the debtor refuses to redraft the settlement plan, or if the creditors declare during subsequent meetings that they do not support the settlement plan, the debtor closes the negotiations and informs the court and the debtor's supreme governing body of the unsuccessful attempt with a copy of the minutes of the negotiations.

The lack of approval results in a mandatory court order for the conclusion of the bankruptcy proceeding and initiates the liquidation proceeding against the debtor, ex officio establishes the debtor's insolvency in the liquidation proceeding and orders the liquidation of the debtor. The court extends the payment moratorium until midnight on the second business day following the publication of the final liquidation order.

In liquidation proceedings, the parties may also settle in court. The purpose of a settlement in a liquidation proceeding is to satisfy the claims of all creditors or at least provide sufficient funds for their claims to terminate the liquidation proceeding. In the absence of sufficient funds, a settlement cannot be reached and the liquidation proceeding continues.

If the debtor fails to perform its payment obligation established in a settlement in a bankruptcy or liquidation proceeding, the court may find the debtor insolvent in a subsequent liquidation proceeding.

23 Insolvency processes

During an insolvency case, what notices are given to creditors? What meetings are held? How are meetings called? What information regarding the administration of the estate, its assets and the claims against it is available to creditors or creditors' committees? What are insolvency administrators' reporting obligations? May creditors pursue the estate's remedies against third parties?

Several notices are given to creditors during a bankruptcy proceeding. These include, for example, the publication of the court order initiating the bankruptcy proceeding and the debtor's notice on the same, as well as notices on composition meetings, the debtor's financial situation, the administrator's activities, cost of the proceeding and those circumstances that may encourage initiations of legal action.

Several notices are given to creditors during a liquidation proceeding, some of which are only provided if specifically requested. These include, the court order initiating the liquidation proceeding, the liquidation schedule, similar informative notices as listed above for bankruptcy proceedings as well as notices on the interim and closing balance and related financial and distribution information, and information related to auctions held.

During bankruptcy within 60 days of the start date, the debtor must call a creditors' meeting to conclude a draft plan specifying the conditions for the settlement of the debtor's debts. The draft must be available for the creditors at least five business days before the meeting.

The following meetings take place during liquidation:

- within 75 days of the start date, the liquidation administrator must call a meeting to form the creditors' committee or appoint the creditors' representative; and
- after 40 days from the start date and any time before the submission of the closing balance sheet, the debtor may request the court to call a settlement meeting.

The bankruptcy administrator must also provide notices to the employees and their representatives, to the debtor on the classification and the amount of the creditors' claim and to the supreme governing body, the supervisory board and the auditor concerning the eventual depletion of the debtor's assets to the detriment of the creditors' interests.

The liquidation administrator also has to prepare a comprehensive report for the settlement meeting.

The information available to creditors or creditors' committees must include the information communicated to them in the above notices and the administrators' reports.

The creditors may not pursue the estate's remedies against third parties in bankruptcy or under liquidation.

24 Enforcement of estate's rights

If the insolvency administrator has no assets to pursue a claim, may the creditors pursue the estate's remedies? If so, to whom do the fruits of the remedies belong?

No, creditors may not pursue the estate's remedies.

25 Creditor representation

What committees can be formed (or representative counsel appointed) and what powers or responsibilities do they have? How are they selected and appointed? May they retain advisers and how are their expenses funded?

Only one committee, consisting of three to seven members, can operate during the respective insolvency proceeding of a business entity. The powers of the committee include the right to request information from the administrator on the bankruptcy or liquidation proceeding. The right to information concerning the circumstances that may entitle creditors (or other persons) to launch legal action against the (former) members or executive officers of the debtor is specifically regulated in the Bankruptcy Act.

In addition, the committee has the right to:

- challenge the activities of the administrator;
- attend composition meetings and vote on composition plans (as separate groups);
- recommend the removal of the liquidation administrator;
- comment on the interim balance of the debtor;
- approve the sale of assets in liquidation proceedings;
- agree to lower the asking price in auctions held in liquidation proceedings;
- challenge the liquidation schedule;
- monitor the execution of the composition plan (if so agreed);
- agree to special forms of public sale of assets;
- demand certain supervisory rights for the sale of assets;
- agree to the increase of employees' wages or salaries; and
- agree to the continuation of the debtor's business activities.

The formation (and continuous operation) of a committee is subject to compliance with the participation requirement of a stipulated number of creditors having the required number of votes. The

voting process is open and a simple majority is required for decision-making. The committee of the bankruptcy proceeding may continue to operate in the subsequent ex officio liquidation proceeding if it meets the requirements for the formation of a committee in liquidation. The committee has formal decision-making rules and internal rules on advancing the costs of their operation (including expert valuation of assets). The administrator must call a meeting for the appointment of a committee within 75 days of the start date of the liquidation. In bankruptcy proceedings, the committee may be formed at the meeting convened to approve the composition plan.

26 Insolvency of corporate groups

In insolvency proceedings involving a corporate group, are the proceedings by the parent and its subsidiaries combined for administrative purposes? May the assets and liabilities of the companies be pooled for distribution purposes? May assets be transferred from an administration in your country to an administration in another country?

The proceedings by parent companies and subsidiaries may not be combined for administrative purposes, as Hungarian law does not allow group insolvencies or the combination of insolvency proceedings. Hence, the assets and liabilities of the companies cannot be pooled for distribution purposes. Contracts with the objective of transferring assets to another country concluded before the commencement of the insolvency proceeding can be fulfilled with the approval of the administrator. Contracts (and their fulfilment) with the same objective concluded during the insolvency proceeding are subject to the discretion of the insolvency administrator.

27 Claims and appeals

How is a creditor's claim submitted and what are the time limits? How are claims disallowed and how does a creditor appeal? Are there provisions on the transfer of claims? Must transfers be disclosed and are there any restrictions on transferred claims? Can claims for contingent or unliquidated amounts be recognised? How are the amounts of such claims determined?

In bankruptcy proceedings existing claims have to be submitted within 30 days of the start date and within eight business days if the claims arose after the start date. Simultaneously, the registration fee has to be paid to the administrator.

In liquidation proceedings known claims must be notified within 40 days of the start date but within 180 days at the latest. Missing the final deadline results in the forfeiture of rights. Regarding claims arising during the liquidation proceeding, the clock starts from the date the claim arose.

Claims may be considered and listed as disputed. A claim may not be registered as disputed if it is produced in a public document unless it was partially or fully paid. In bankruptcy proceedings the court may change the rank of the claim at the request of the creditor. In liquidation proceedings, the administrator automatically informs the court of disputable claims following the negotiations with the affected persons and entities.

The transfer of claims is governed by the general civil law provisions that require a notification of the transfer. The only restriction on transferred claims is in liquidation proceedings, where only such claims can be subject to a set-off that have been registered as recognised claims and that have not been transferred following the starting date of the liquidation (or the occurrence of a claim that arose after the starting date). The transfer does not affect the ranks in liquidation proceedings, the voting right calculations in bankruptcy proceedings and liquidation agreement approvals.

In bankruptcy proceedings, claims for contingent assets may not be submitted and are not recognised. Claims must be described in monetary terms in order to be considered a claim under the Bankruptcy Act either in bankruptcy proceedings or liquidation

proceedings. Hence, an unliquidated amount cannot be submitted or recognised in either (however, late interest fees may be considered). Contingent assets, defined as any claim arising from bank guarantees, insurance guarantees or commitments issued by an insurance company containing surety facilities, have to be submitted in liquidation proceedings to the administrator, if the timing of their payment and maturity is uncertain.

28 Modifying creditors' rights

May the court change the rank of a creditor's claim? If so, what are the grounds for doing so and how frequently does this occur?

In bankruptcy proceedings the creditor or the debtor may request that the court review their plea if they challenged the ranking but the administrator refused to change it. A claim may not be registered as disputed if it is produced in a public document, unless it was paid partially or in full.

In liquidation proceedings, the administrator must notify the court of all claims that can be classified as disputed and amend accordingly the interim balance sheet with the findings of the court. A claim may not be registered as disputed if it is produced in a public document, unless it was paid partially or in full.

29 Priority claims

Apart from employee-related claims, what are the major privileged and priority claims in liquidations and reorganisations? Which have priority over secured creditors?

In bankruptcy proceedings, employee-related claims (specifically wage and salary claims) are not affected by the moratorium but do not enjoy any special priority. With the exception of a few other claims, which are not affected by the moratorium, there is no priority of claims in bankruptcy proceedings.

In liquidation proceedings, liquidation costs and allowance-type claims can be satisfied upon maturity and as such enjoy a privileged status. These claims usually come before secured claims. Liquidation costs include wages or salaries, as well as costs related to the termination of employees, the rational termination of the debtor's business operations and the sale of assets among others.

Secured creditors enjoy a privileged status, which is recognised both during the proceeding and upon the ruling on the rank of distribution.

30 Employment-related liabilities in restructurings

What employee claims arise where employees are terminated during a restructuring or liquidation? What are the procedures for termination?

There are no special claims related to the termination of employees in the course of bankruptcy or liquidation proceedings. Severance pay is not subject to the payment moratorium in bankruptcy proceedings.

Employment relationships can be terminated by ordinary termination as the economic status of an employer can justify the termination of an employment relationship. Termination of employment relationships with immediate effect due to the commencement of the liquidation proceeding is prohibited. Where a large number of employees are dismissed, the rules of group termination have to be followed. Fixed-term employment relationships may be terminated during bankruptcy or liquidation.

Employee claims are not increased where large numbers of employees are dismissed or where the entire business terminates.

Employers in Hungary do not offer pension plans as there is a comprehensive state social security system. However, they may provide contributions to voluntary pension funds. Any deficiency concerning the payment of pension-related charges belongs to the category of liquidation costs. As such, it is in the first priority of the distribution, can be satisfied upon maturity and enjoys a privileged status. Termination-related claims are also considered

liquidation costs. Pension-related charges are not subject to the payment moratorium in bankruptcy proceedings.

31 Liabilities that survive insolvency proceedings

Do any liabilities of a debtor survive an insolvency or a reorganisation?

Composition plans in bankruptcy and liquidation proceedings may contain provisions on the survival of the debtor's liability. Special rules apply to the income from the distribution of encumbered assets in liquidation proceedings, which privileges the beneficiary of the encumbrance.

The Bankruptcy Act contains strict rules on the submission of claims that may be enforced only in bankruptcy or liquidation proceedings. If these claims were not properly filed, the beneficiary cannot enforce the claim.

In liquidation proceedings, the composition plan may contain specific provisions on the fulfilment of pending claims that may survive the conclusion of the liquidation proceeding. The administrator also has to set aside assets for the satisfaction of subsequent warranty, guarantee and damages claims. These funds will have to be managed by a separate business entity or the beneficiaries must be paid a one-time refund.

Following deregistration of a company from the company registry after the conclusion of the liquidation proceeding, creditors may also assert their claims under the general rules on the enforcement of claims following deregistration. The liability of a member, previous member or an executive officer may be established and satisfaction for any unsatisfied claims in civil proceedings demanded if certain conditions are met (depending on the exact legal title for liability, the satisfaction may only be demanded for outstanding unsatisfied claims).

The state is liable for (mostly allowance claims) liabilities of the liquidated company not satisfied in the liquidation proceeding.

32 Distributions

How and when are distributions made to creditors in liquidations and reorganisations?

In bankruptcy proceedings, distribution to creditors is made in accordance with the approved composition plan.

In liquidation proceedings, distributions are made either in accordance with the composition or pursuant to court order at the conclusion of the proceeding based on the closing balance sheet and the proposal for the distribution of assets.

Depending on the rank of the claims, certain claims can be satisfied upon maturity (costs of liquidation and allowance type claims), and others, with certain conditions, following the preparation of an interim balance sheet.

33 Transactions that may be annulled

What transactions can be annulled or set aside in liquidations and reorganisations and what are the grounds? What is the result of a transaction being annulled?

In bankruptcy proceedings, transactions concluded during the bankruptcy proceedings relating to the satisfaction of claims despite the prohibition of the Bankruptcy Act and pre-bankruptcy transactions intended to deplete the debtor's assets to the detriment of the creditors' interests, may be contested and subsequently set aside if the courts find for the plaintiff.

Transactions may be attacked by the bankruptcy administrator in case of transactions concluded during bankruptcy. Pre-bankruptcy transactions intended to deplete the assets to the detriment of the creditors may be attacked by the supreme governing body, the supervisory board or the auditor of the debtor.

In liquidation proceedings, transactions may be contested in court and deemed void if they were concluded within:

- five years before or during the liquidation proceeding with the intention to deceive the creditor(s) and the other party had or should have had knowledge of such intent;
- two years before or during the liquidation proceeding with the intention to decrease the debtor's assets in transactions without remuneration; or
- 90 days before or during the liquidation proceeding with the intention to give preference and privileges to a single creditor over other creditors.

Additionally, any services provided by the debtor within 60 days before the start of liquidation may be reclaimed by the administrator, if it was provided with the intention to give preference to a creditor and if such service would not have been provided under usual business conditions.

34 Proceedings to annul transactions

Does your country use the concept of a 'suspect period' in determining whether to annul a transaction by an insolvent debtor? May voidable transactions be attacked by creditors or only by a liquidator or trustee? May they be attacked in a reorganisation or a suspension of payments or only in a liquidation?

In bankruptcy proceedings, transactions concluded during the bankruptcy proceedings and pre-bankruptcy transactions may both be attacked.

Transactions concluded during the bankruptcy proceedings may be attacked by the bankruptcy administrator. Pre-bankruptcy transactions intended to deplete the assets to the detriment of the creditors may be attacked by the supreme governing body, the supervisory board or the auditor of the debtor.

In liquidation proceedings, both the creditors and the liquidation administrator (on behalf of the debtor) may attack transactions within 90 days from notice or within a one-year limitation period from the date of the publication of the notice of the liquidation order with the following suspect periods set forth by the Bankruptcy Act for the following cases:

- contracts concluded by the debtor or other legal statements made by the debtor within five years preceding the date when the court received the petition for the commencement of the liquidation proceeding or thereafter, resulting in the decrease of the debtor's assets, if they were intended to deceive the creditors and the other party had or should have had knowledge of the intent;
- contracts concluded by the debtor or other legal statements made by the debtor within two years preceding the date when the court received the petition for the commencement of the liquidation proceeding or thereafter, if the subject matter of the contract or the legal statement was the transfer of (part of) the debtor's assets without any compensation or to undertake a commitment as an encumbrance to the debtor's assets without remuneration, or an onerous legal transaction concluded for a third party with unreasonable and extensive benefits to the third party; and
- contracts concluded by the debtor or other legal statements made by the debtor within 90 days preceding the date when the court received the petition for the commencement of the liquidation proceeding or thereafter, if the subject matter of the contract or the legal statement was to give preference and privileges to a creditor, such as the amendment of an existing contract to the benefit of a creditor, or to provide security to a creditor that does not have any.

The liquidation administrator (on behalf of the debtor) may also be entitled to reclaim within the above deadline any service the debtor provided within 60 days before the date the court received the petition for the commencement of the liquidation proceeding or thereafter, if it was provided to give preference to a creditor and if such service is not usually provided under normal circumstances (such as

prepayment of a debt).

If the liquidation administrator learns of the suspicious transactions within the 90-day deadline and notifies the creditors, the creditors may also attack the contract or legal statement within 15 days of notice of the suspicious transactions from the liquidation administrator's notification within the above one-year limitation period if fewer than 15 days remain from the above 90-day deadline or if the 90-day deadline has already passed.

35 Directors and officers

Are corporate officers and directors liable for their corporation's obligations? Are they liable for pre-bankruptcy actions by their companies? Can they be subject to sanctions for other reasons?

Corporate officers must fulfil their management duties based on the priority of the creditors' interest if there is an imminent threat of the company's insolvency. Under the Bankruptcy Act, their liability for their pre-liquidation (but not for pre-bankruptcy) actions can be established in a court of law under certain circumstances, which relate to the nature of their actions and a three-year time limit, and the obligation to provide security for the creditors' claims can also be imposed on them. If their liability was established, any creditor can file an action against them to have its claim satisfied by the executive officers within a 60-day forfeiture deadline following the final ruling on the conclusion of the liquidation proceeding (provided that the proceeding on liability was already concluded).

Corporate officers may also be subject to fines both in bankruptcy and liquidation proceedings if they refuse to cooperate with the administrator or violate their obligations under the Bankruptcy Act. Making unlawful payments to the creditors under the moratorium in bankruptcy proceedings is also subject to fines.

36 Creditors' enforcement

Are there processes by which some or all of the assets of a business may be seized outside of court proceedings? How are these processes carried out?

Any assets that are not considered part of the estate in bankruptcy or liquidation proceedings may be seized outside court proceedings.

In bankruptcy proceedings, the enforcement of monetary claims is stayed and enforcement of such claims cannot be ordered.

In liquidation proceedings, the ongoing enforcement proceedings have to be immediately terminated and enforcement rights on real properties cease to exist. Litigation and non-litigious proceedings commenced before the starting date of the liquidation proceeding continue, but the plaintiffs have to submit their claims in the liquidation proceeding if they have monetary claims. The restraint on alienation and encumbrance of real property and other assets is ter-

Update and trends

In Hungarian law, the introduction of electronic communications between the court and the parties as of 1 January 2013 is a hot topic. The petition for bankruptcy proceedings will be submitted as of 1 January 2013 electronically only. However, no detailed implementation rules have been published to date.

No new legislation is currently pending, but this can change during the present autumn session of Parliament.

minated on the start date of the liquidation. Repurchase rights and purchase rights as well as liens remain intact until the asset is sold. The beneficiary can exercise his or her right but without the benefit of set-off. Caution money, which is a type of contract security, provided before the start date of the liquidation proceeding can be used to satisfy the secured claim for three months, after which the encumbrance is handled as a lien. Special rules apply if the debtor is under majority influence of the beneficiary.

37 Corporate procedures

Are there corporate procedures for the liquidation or dissolution of a corporation? How do such processes contrast with bankruptcy proceedings?

There are no specific corporate procedures for the liquidation or dissolution of a corporation. The court in charge of the liquidation must make arrangements for the electronic registration in the company registry of any related changes or updates of the company's information and for the publication of the required notices in the Companies Gazette. The court electronically forwards the related order when it becomes final, and the registration of changes takes place simultaneously with the publication of the notice in the Companies Gazette.

Similarly, there are no special corporate procedures for bankruptcy proceedings.

38 Conclusion of case

How are liquidation and reorganisation cases formally concluded?

Liquidation and bankruptcy proceedings are formally concluded by an order of the presiding court.

In bankruptcy proceedings, the court may either approve the composition and terminate the proceeding or reject the composition and, following the termination of the bankruptcy, immediately declare the debtor insolvent and order the commencement of liquidation.

In liquidation proceedings, the court issues its ruling based on the final liquidation balance sheet and the proposal for the distribution of assets. The court rules on the costs, the

KNP LAW NAGY KOPpany VARGA AND PARTNERS

Kornélia Nagy-Koppány
Abigél Csurdi
Éva Németh

knagykoppany@knplaw.com
acsurdi@knplaw.com
enemeth@knplaw.com

Mahart Ház, 6th Floor
Budapest, Vigadó utca 2
1051 Budapest
Hungary

Tel: +36 1 302 9050
Fax: +36 1 302 9060
www.knplaw.com

administrator's fee, the satisfaction of the claims of the creditors, the closing of current accounts and the invalidation of securities issued by the debtor through the central depository. In addition, the court orders the liquidation administrator to take further measures required. The court also rules on the conclusion of the liquidation proceeding and on the dissolution of the debtor.

If a settlement agreement is reached in liquidation, the court approves the agreement and provides for the termination of the liquidation, sets the fee of the liquidation administrator, and the costs and the satisfaction of the creditors' claims excluded from the agreement.

In liquidation proceedings, the court may also conclude the proceeding upon the debtor's request (except proceedings initiated based on an involuntary deregistration proceeding, which also precludes settlements), if the debtor paid all the registered, recognised or undisputed claims and provided sufficient funds for the disputed claims and the administrator's fee.

39 International cases

What recognition or relief is available concerning an insolvency proceeding in another country? How are foreign creditors dealt with in liquidations and reorganisations? Are foreign judgments or orders recognised and in what circumstances? Is your country a signatory to a treaty on international insolvency or on the recognition of foreign judgments? Has the UNCITRAL Model Law on Cross-Border Insolvency been adopted or is it under consideration in your country?

With the exception of the provisions of the EU Insolvency Regulation, the general rules on the recognition of foreign judgments apply. Foreign creditors must appoint a delivery agent in bankruptcy proceedings, otherwise they are treated as domestic creditors.

Hungary is not a party to a treaty on international insolvency or on the recognition of insolvency-related foreign judgments.

The UNCITRAL Model Law on Cross-Border Insolvency has not been adopted in Hungary, and its adoption is not under consideration.

40 Cross-border cooperation

Does your country's system allow cooperation between domestic and foreign courts and domestic and foreign insolvency administrators in cross-border insolvencies and restructurings? Have courts in your country refused to recognise foreign proceedings or to cooperate with foreign courts?

The Bankruptcy Act contains provisions governing communication with the court conducting the main proceeding with regard to the EU Insolvency Regulation. Other than that, this area has not been regulated and there is no case law to provide guidance.

41 Cross-border insolvency protocols and joint court hearings

In cross-border cases, have the courts in your country entered into cross-border insolvency protocols or other arrangements to coordinate proceedings with courts in other countries? Have courts in your country communicated or held joint hearings with courts in other countries in cross-border cases? If so, with which other countries?

No, the courts have not entered into cross-border insolvency protocols or other arrangements and have not held joint hearings with courts in other countries.

GETTING THE DEAL THROUGH

Annual volumes published on:

Air Transport
Anti-Corruption Regulation
Anti-Money Laundering
Arbitration
Asset Recovery
Banking Regulation
Cartel Regulation
Climate Regulation
Construction
Copyright
Corporate Governance
Corporate Immigration
Data Protection
Dispute Resolution
Dominance
e-Commerce
Electricity Regulation
Enforcement of Foreign Judgments
Environment
Foreign Investment Review
Franchise
Gas Regulation
Insurance & Reinsurance
Intellectual Property & Antitrust
Labour & Employment
Licensing
Life Sciences
Mediation
Merger Control
Mergers & Acquisitions
Mining
Oil Regulation
Patents
Pharmaceutical Antitrust
Private Antitrust Litigation
Private Client
Private Equity
Product Liability
Product Recall
Project Finance
Public Procurement
Real Estate
Restructuring & Insolvency
Right of Publicity
Securities Finance
Shipbuilding
Shipping
Tax on Inbound Investment
Telecoms and Media
Trade & Customs
Trademarks
Vertical Agreements



For more information or to purchase books, please visit:
www.GettingTheDealThrough.com



Strategic research partners of
the ABA International section



THE QUEEN'S AWARDS
FOR ENTERPRISE:
2012



The Official Research Partner of
the International Bar Association