

Altman Z-Score

Contents

1	Altman Z-score	1
1.1	Estimation of the formula	1
1.2	Precedents	2
1.3	Accuracy and effectiveness	2
1.4	Original z-score component definitions variable definition	2
1.5	Z-score estimated for private firms	2
1.6	Z-score estimated for non-manufacturers & emerging markets	3
1.7	See also	3
1.8	References	3
1.9	Further reading	3
1.10	External links	3
2	Bankruptcy	4
2.1	Etymology	4
2.2	History	4
2.3	Modern law and debt restructuring	5
2.4	Fraud	5
2.5	By country	6
2.5.1	Argentina	6
2.5.2	Australia	6
2.5.3	Brazil	7
2.5.4	Canada	7
2.5.5	China	8
2.5.6	Ireland	8
2.5.7	India	8
2.5.8	The Netherlands	8
2.5.9	Russia	8
2.5.10	South Africa	9
2.5.11	Switzerland	9
2.5.12	Sweden	9

2.5.13	United Kingdom	10
2.5.14	United States	10
2.5.15	Europe	13
2.6	See also	13
2.7	References	14
2.8	Further reading	15
2.9	External links	15
3	Financial distress	16
3.1	Cost of financial distress	16
3.2	Options for relieving financial distress	16
3.3	External links	16
4	Creditor	17
4.1	Accounting classification	17
4.2	Creditors Power During Insolvency	17
4.3	See also	17
4.4	References	17
4.5	External links	18
5	Debtor	19
5.1	The history of the term “debtor”	19
5.2	Types of Debtors	19
5.3	Default	20
5.4	Debtor in Bankruptcy and Individual Voluntary Arrangements	20
5.5	Other uses	20
5.6	See also	20
5.7	References	20
5.8	External links	20
6	Individual voluntary arrangement	21
6.1	Process	21
6.2	IVA or bankruptcy	21
6.3	Advantages and disadvantages	21
6.3.1	Stigma	21
6.3.2	Length	22
6.3.3	Obtaining credit	22
6.3.4	Ability to trade	22
6.3.5	Credit rating	22
6.3.6	Fees	22

6.3.7	The home	22
6.3.8	Failure	22
6.4	Roles of the insolvency practitioner	23
6.4.1	Adviser	23
6.4.2	Nominee	23
6.4.3	Chairman	23
6.4.4	Supervisor	23
6.5	See also	23
6.6	Notes	24
6.7	External links	24
7	Liquidation	25
7.1	Compulsory liquidation	25
7.1.1	Grounds	25
7.1.2	The order	26
7.2	Voluntary liquidation	26
7.3	Misconduct	26
7.4	Priority of claims	26
7.5	Dissolution	27
7.6	Striking off the Register	27
7.7	Provisional liquidation	27
7.8	Phoenix companies	27
7.9	See also	28
7.10	References	28
8	Receivership	29
8.1	Duties of a receiver	29
8.2	United States process	29
8.3	United Kingdom process	30
8.3.1	History	30
8.3.2	Present significance	31
8.4	Ireland process	31
8.5	See also	31
8.6	References	31
8.7	External links	32
8.8	Text and image sources, contributors, and licenses	33
8.8.1	Text	33
8.8.2	Images	34
8.8.3	Content license	35

Chapter 1

Altman Z-score

ATM – INVESTORS ASSOCIATION
ALTMAN Z-SCORE

TYPE OF COMPANY: CYCLICAL COMPANY
PUBLICLY LISTED COMPANY
PRIVATE FIRMS
CYCLICAL COMPANY

1 Total Assets	€ 80,944.00
2 Total Liabilities	€ 28,291.00
3 Current Assets	€ 50,255.00
4 Current Liabilities	€ 6,027.00
5 EBIT	€ 40,419.00
6 Retained Earnings	€ 25,201.00
7 Net Sales ⁽¹⁾	€ 7,425.00
8 Market Capitalization ⁽²⁾	

-3.67
BANKRUPT ZONE

Z > 2.60	SAFETY ZONE
1.1 < Z < 2.60	GREY ZONE
Z < 1.1	BANKRUPT ZONE

(1) In Cyclical Companies is not considered the value of Net Sales.
(2) In Private Firms use the Shareholders' Equity.

Optimized for 1280x1024 resolution and works best with Microsoft Excel 2008 and up.
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Example of an Excel spreadsheet that uses Altman Z-score to predict the probability that a firm will go into bankruptcy within two years

The **Z-score formula for predicting bankruptcy** was published in 1968 by **Edward I. Altman**, who was, at the time, an Assistant Professor of Finance at **New York University**. The formula may be used to predict the probability that a firm will go into **bankruptcy** within two years. Z-scores are used to predict corporate defaults and an easy-to-calculate control measure for the **financial distress** status of companies in academic studies. The Z-score uses multiple corporate income and balance sheet values to measure the financial health of a company.

1.1 Estimation of the formula

The Z-score is a linear combination of four or five common business ratios, weighted by coefficients. The coefficients were estimated by identifying a set of firms which had declared bankruptcy and then collecting a **matched sample** of firms which had survived, with matching by industry and approximate size (assets).

Altman applied the statistical method of **discriminant analysis** to a dataset of publicly held manufacturers. The estimation was originally based on data from publicly held manufacturers, but has since been re-estimated based on other datasets for private manufacturing, non-manufacturing and service companies.

The original data sample consisted of 66 firms, half of which had filed for bankruptcy under Chapter 7. All businesses in the database were manufacturers, and small firms with assets of < \$1 million were eliminated.

The original Z-score formula was as follows:^[1]

$$Z = 1.2X_1 + 1.4X_2 + 3.3X_3 + 0.6X_4 + 1.0X_5.$$

X_1 = Working Capital / Total Assets. Measures liquid assets in relation to the size of the company.

X_2 = Retained Earnings / Total Assets. Measures profitability that reflects the company's age and earning power.

X_3 = Earnings Before Interest and Taxes / Total Assets. Measures operating efficiency apart from tax and leveraging factors. It recognizes operating earnings as being important to long-term viability.

X_4 = Market Value of Equity / Book Value of Total Liabilities. Adds market dimension that can show up security price fluctuation as a possible red flag.

X_5 = Sales / Total Assets. Standard measure for total asset turnover (varies greatly from industry to industry).

Altman found that the ratio profile for the bankrupt group fell at -0.25 avg, and for the non-bankrupt group at $+4.48$ avg.

1.2 Precedents

Altman's work built upon research by accounting researcher William Beaver and others. In the 1930s and on, Mervyn and others had collected matched samples and assessed that various accounting ratios appeared to be valuable in predicting bankruptcy. Altman's Z-score is a customized version of the discriminant analysis technique of R. A. Fisher (1936).

William Beaver's work, published in 1966 and 1968, was the first to apply a statistical method, *t-tests* to predict bankruptcy for a pair-matched sample of firms. Beaver applied this method to evaluate the importance of each of several accounting ratios based on univariate analysis, using each accounting ratio one at a time. Altman's primary improvement was to apply a statistical method, discriminant analysis, which could take into account multiple variables simultaneously.

1.3 Accuracy and effectiveness

In its initial test, the Altman Z-Score was found to be 72% accurate in predicting bankruptcy two years before the event, with a Type II error (false negatives) of 6% (Altman, 1968). In a series of subsequent tests covering three periods over the next 31 years (up until 1999), the model was found to be approximately 80%–90% accurate in predicting bankruptcy one year before the event, with a Type II error (classifying the firm as bankrupt when it does not go bankrupt) of approximately 15%–20% (Altman, 2000).^[2]

From about 1985 onwards, the Z-scores gained wide acceptance by auditors, management accountants, courts, and database systems used for loan evaluation (Eidleman). The formula's approach has been used in a variety of contexts and countries, although it was designed originally for publicly held manufacturing companies with assets of more than \$1 million. Later variations by Altman were designed to be applicable to privately held companies (the Altman Z'-Score) and non-manufacturing companies (the Altman Z''-Score).

Neither the Altman models nor other balance sheet-based models are recommended for use with financial compa-

nies. This is because of the opacity of financial companies' balance sheets and their frequent use of off-balance sheet items. There are market-based formulas used to predict the default of financial firms (such as the Merton Model), but these have limited predictive value because they rely on market data (fluctuations of share and options prices to imply fluctuations in asset values) to predict a market event (default, i.e., the decline in asset values below the value of a firm's liabilities).^[3]

1.4 Original z-score component definitions variable definition

X_1 = Working Capital / Total Assets

X_2 = Retained Earnings / Total Assets

X_3 = Earnings Before Interest and Taxes / Total Assets

X_4 = Market Value of Equity / Total Liabilities

X_5 = Sales / Total Assets

Z score bankruptcy model:

$$Z = 1.2X_1 + 1.4X_2 + 3.3X_3 + 0.6X_4 + .999X_5$$

Zones of Discrimination:

$Z > 2.99$ - "Safe" Zone

$1.81 < Z < 2.99$ - "Gray" Zone

$Z < 1.81$ - "Distress" Zone

1.5 Z-score estimated for private firms

X_1 = (Current Assets – Current Liabilities) / Total Assets

X_2 = Retained Earnings / Total Assets

X_3 = Earnings Before Interest and Taxes / Total Assets

X_4 = Book Value of Equity / Total Liabilities

X_5 = Sales / Total Assets

Z' Score Bankruptcy Model:

$$Z' = 0.717T_1 + 0.847T_2 + 3.107T_3 + 0.420T_4 + 0.998T_5$$

Zones of Discrimination:

$Z' > 2.9$ -“Safe” Zone

$1.23 < Z' < 2.9$ -“Grey” Zone

$Z' < 1.23$ -“Distress” Zone

1.6 Z-score estimated for non-manufacturers & emerging markets

$X_1 = (\text{Current Assets} - \text{Current Liabilities}) / \text{Total Assets}$

$X_2 = \text{Retained Earnings} / \text{Total Assets}$

$X_3 = \text{Earnings Before Interest and Taxes} / \text{Total Assets}$

$X_4 = \text{Book Value of Equity} / \text{Total Liabilities}$

Z-Score bankruptcy model: $Z = 3.25 + 6.56X_1 + 3.26X_2 + 6.72X_3 + 1.05X_4$ ^[4]

Z-Score bankruptcy model (Emerging Markets): $Z = 6.56X_1 + 3.26X_2 + 6.72X_3 + 1.05X_4$

Zones of discriminations:

$Z > 2.6$ -“Safe” Zone

$1.1 < Z < 2.6$ -“Grey” Zone

$Z < 1.1$ -“Distress” Zone

1.7 See also

- Standard score
- Z-test
- Z-factor
- Ohlson o-score

1.8 References

Altman, Edward I. (July 2000). “Predicting Financial Distress of Companies”. Retrieved on September 4th, 2009 from <http://pages.stern.nyu.edu/~ealtman/Zscores.pdf>: 15–22. External link in `ljournal= (help)`

Altman, Edward I. (September 1968). “Financial Ratios, Discriminant Analysis and the Prediction of Corporate Bankruptcy”. *Journal of Finance*: 189–209. doi:10.1111/j.1540-6261.1968.tb00843.x.

Altman, Edward I. (May 2002). “Revisiting Credit Scoring Models in a Basel II Environment” (PDF). Prepared for “Credit Rating: Methodologies, Rationale, and Default Risk”, London Risk Books 2002.

Eidleman, Gregory J. (1995-02-01). “Z-Scores – A Guide to Failure Prediction”. *The CPA Journal Online*.

Fisher, Ronald Aylmer (1936). “The Use of Multiple Measurements in Taxonomic Problems”. *Annals of Eugenics* 7: 179. doi:10.1111/j.1469-1809.1936.tb02137.x.

The Use of Credit Scoring Modules and the Importance of a Credit Culture by Dr. Edward I Altman, Stern School of Business, New York University.

[1] realequityresearch.dk/Documents/Z-Score_Altman_1968.pdf

[2] Predicting Financial Distress of Companies: Revisiting the Z-SCORE and ZETA Models

[3] Predicting Financial Distress of Companies:Revisiting the Z-SCORE and ZETA Models

[4] <http://people.stern.nyu.edu/ealtman/IRMC2014ZMODELpaper1.pdf>

1.9 Further reading

Caouette, John B; Edward I Altman, Paul Narayanan (1998). *Managing Credit Risk - the Next Great Financial Challenge*, John Wiley & Sons: New York. ISBN 978-0-471-11189-4

1.10 External links

- Altman Z-Score Calculator

Chapter 2

Bankruptcy



Notice of closure attached to the door of a Computer Shop outlet the day after its parent company declared "bankruptcy" (strictly, put into administration) in the United Kingdom

Bankruptcy is a legal status of a person or other entity that cannot repay the debts it owes to creditors. In most jurisdictions, bankruptcy is imposed by a court order, often initiated by the debtor.

Bankruptcy is not the only legal status that an insolvent person or other entity may have, and the term *bankruptcy* is therefore not a synonym for *insolvency*. In some countries, including the United Kingdom, bankruptcy is limited to individuals, and other forms of insolvency proceedings (such as liquidation and administration) are applied to companies. In the United States, *bankruptcy* is applied more broadly to

formal insolvency proceedings.

2.1 Etymology

The word *bankruptcy* is derived from Italian *banca rotta*, meaning "broken bank", which may stem from a custom of breaking a moneychanger's bench or counter to signify his insolvency, or which may be only a figure of speech.^{[1][2][3][4][5]}

2.2 History

Main article: [History of bankruptcy law](#)

In Ancient Greece, bankruptcy did not exist. If a man owed and he could not pay, he and his wife, children or servants were forced into "debt slavery", until the creditor recouped losses through their physical labour. Many city-states in ancient Greece limited debt slavery to a period of five years; debt slaves had protection of life and limb, which regular slaves did not enjoy. However, servants of the debtor could be retained beyond that deadline by the creditor and were often forced to serve their new lord for a lifetime, usually under significantly harsher conditions. An exception to this rule was Athens, which by the laws of Solon forbade enslavement for debt; as a consequence, most Athenian slaves were foreigners (Greek or otherwise).

The Statute of Bankrupts of 1542 was the first statute under English law dealing with bankruptcy or insolvency.^[6] Bankruptcy is also documented in East Asia. According to al-Maqrizi, the Yassa of Genghis Khan contained a provision that mandated the death penalty for anyone who became bankrupt three times.

A failure of a nation to meet bond repayments has been seen on many occasions. Philip II of Spain had to declare four state bankruptcies in 1557, 1560, 1575 and 1596. According to Kenneth S. Rogoff, "Although the development of international capital markets was quite limited prior to 1800,



Failure of John Law's Mississippi Company led to French national bankruptcy in 1720.

we nevertheless catalog the various defaults of France, Portugal, Prussia, Spain, and the early Italian city-states. At the edge of Europe, Egypt, Russia, and Turkey have histories of chronic default as well.^[7]

2.3 Modern law and debt restructuring

The principal focus of modern insolvency legislation and business **debt restructuring** practices no longer rests on the elimination of insolvent entities, but on the remodeling of the financial and organizational structure of debtors experiencing **financial distress** so as to permit the rehabilitation and continuation of the business.

For private households, it is argued to be insufficient to merely dismiss debts after a certain period. It is important to assess the underlying problems and to minimize the risk of financial distress to re-occur. It has been stressed that debt advice, a supervised rehabilitation period, financial education and social help to find sources of income and to improve the management of household expenditures need to be equally provided during this period of rehabilitation (Reifner *et al.*, 2003; Gerhardt, 2009; Frade, 2010). In most EU Member States, debt discharge is conditioned by a partial payment obligation and by a number of requirements concerning the debtor's behavior. In the United States (US),

discharge is conditioned to a lesser extent. The spectrum is broad in the EU, with the UK coming closest to the US system (Reifner *et al.*, 2003; Gerhardt, 2009; Frade, 2010). The Other Member States do not provide the option of a debt discharge. Spain, for example, passed a bankruptcy law (*ley concurs*) in 2003 which provides for debt settlement plans that can result in a reduction of the debt (maximally half of the amount) or an extension of the payment period of maximally five years (Gerhardt, 2009), but it does not foresee debt discharge.^[8]

It is almost impossible to discharge student loan debt by filing bankruptcy.^[9] Unlike most other debtors, the individual with student debt must give a series of reasons and tests (with steps) to prove that the debtor could not pay the debt. If the person were to file bankruptcy, he or she is normally encouraged to do so under Chapter 13.

In order to avoid bankruptcy, one could negotiate with the lender to lower monthly payments, or one could seek student debt consolidation. Student loan bankruptcy is considered a last resort. However, some borrowers find themselves being forced to file bankruptcy, as the lender refused to lower payments, or to lower/freeze interest rates (which grows the debt).

2.4 Fraud

Bankruptcy **fraud** is a **white-collar crime**. While difficult to generalize across jurisdictions, common criminal acts under bankruptcy statutes typically involve concealment of assets, concealment or destruction of documents, conflicts of interest, fraudulent claims, false statements or declarations, and **fee fixing** or redistribution arrangements. Falsifications on bankruptcy forms often constitute **perjury**. Multiple filings are not in and of themselves criminal, but they may violate provisions of bankruptcy law. In the U.S., bankruptcy fraud statutes are particularly focused on the **mental state** of particular actions.^{[10][11]} Bankruptcy fraud is a **federal crime** in the United States.

Bankruptcy fraud should be distinguished from **strategic bankruptcy**, which is not a **criminal act**, but may work against the filer.

All assets must be disclosed in bankruptcy schedules whether or not the debtor believes the asset has a **net value**. This is because once a bankruptcy petition is filed, it is for the creditors, not the debtor, to decide whether a particular asset has value. The future ramifications of omitting assets from schedules can be quite serious for the offending debtor. In the United States, a closed bankruptcy may be reopened by motion of a creditor or the U.S. trustee if a debtor attempts to later assert ownership of such an "unscheduled asset" after being discharged of all debt in the

bankruptcy. The trustee may then seize the asset and liquidate it for the benefit of the (formerly discharged) creditors. Whether or not a concealment of such an asset should also be considered for prosecution as fraud and/or **perjury** would then be at the discretion of the judge and/or U.S. Trustee.

2.5 By country

2.5.1 Argentina

In Argentina the national Act “24.522 de Concursos y Quiebras” regulates the Bankruptcy and the Reorganization of the individuals and companies, public entities are not included.

2.5.2 Australia

The Bankruptcy Act 1966 (Commonwealth) is the legislation that governs bankruptcy in **Australia**. Only individuals can become bankrupt; insolvent companies go into **liquidation** or **administration**. There are three “parts” of the act under which the vast majority of “acts of bankruptcy” fall. Part IV (Full Bankruptcy), Part IX Debt Agreements and Part X Personal Insolvency Agreements. Agreements refer specifically to arrangements between creditors and debtors, whereas Part IV relates to full bankruptcy and is generally synonymous with “bankruptcy”.

A person or debtor can declare himself or herself bankrupt by lodging a debtor’s petition with the Official Receiver, which is the Australian Financial Security Authority (AFSA). A person can also be made bankrupt after a creditor’s petition results in the making of a **sequestration order** in the **Federal Magistrates Court**. To declare bankruptcy or for a creditors petition to be lodged, a minimum debt of \$5,000 is required.

All bankrupts are required to lodge a Statement of Affairs document with AFSA, which includes important information about their assets and liabilities. A bankruptcy cannot be annulled until this document has been lodged.

Ordinarily, a Part IV bankruptcy lasts three years from the filing of the Statement of Affairs with AFSA. In the case of a debtor’s petition, the Statement of Affairs is filed with the petition and the three-year period commences immediately. However, in the case of a creditor’s petition, the Statement of Affairs will rarely be filed on the same day the court order is made. If the bankrupt fails to lodge the document within a certain period of time, he or she can be prosecuted and fined.

A Bankruptcy Trustee (in most cases this is the Official Receiver) is appointed to deal with all matters regarding the

administration of the bankrupt estate. The Trustee’s job includes notifying creditors of the estate and dealing with creditor inquiries; ensuring that the bankrupt complies with his or her obligations under the Bankruptcy Act; investigating the bankrupt’s financial affairs; realising funds to which the estate is entitled under the Bankruptcy Act and distributing dividends to creditors if sufficient funds become available.

For the duration of their bankruptcy, all bankrupts have certain restrictions placed upon them under the Act. For example, a bankrupt must obtain the permission of his or her trustee to travel overseas. Failure to do so may result in the bankrupt being stopped at the airport by the Australian Federal Police. Additionally, a bankrupt is required to provide his or her trustee with details of income and assets. If the bankrupt does not comply with the Trustee’s request to provide details of income, the trustee may have grounds to lodge an Objection to Discharge, which has the effect of extending the bankruptcy for a further five years.

The realisation of funds usually comes from two main sources: the bankrupt’s assets and the bankrupt’s wages. There are certain assets that are protected, referred to as “protected assets”. These include household furniture and appliances, tools of the trade and vehicles up to a certain value. All other assets of value will be sold. If a house or car is above a certain value, the bankrupt can buy the interest back from the estate in order to keep the asset. If the bankrupt does not do this, the interest vests in the estate and the trustee is able to take possession of the asset and sell it.

The bankrupt will have to pay income contributions if his or her income is above a certain threshold. The threshold is indexed biannually in March and September, and varies according to the number of dependants the bankrupt has. The income contributions liability is calculated by halving the amount of income that exceeds the threshold. If the bankrupt fails to pay the contributions due, the trustee can issue a notice to garnishee the bankrupt’s wages. If that is not possible, the Trustee may lodge an Objection to Discharge, effectively extending the bankruptcy for a further five years.

Bankruptcies can be annulled prior to the expiration of the normal three-year period if all debts are paid out in full. Sometimes a bankrupt may be able to raise enough funds to make an Offer of Composition to creditors, which would have the effect of paying the creditors some of the money they are owed. If the creditors accept the offer, the bankruptcy can be annulled after the funds are received.

After the bankruptcy is annulled or the bankrupt has been automatically discharged, the bankrupt’s credit report status will be shown as “discharged bankrupt” for some years. The number of years varies depending on the company issuing the report, but the report will eventually cease to record that

information.

Certain limited information on Bankruptcy Law in Australia can be found at the AFSA web site.^[12]

2.5.3 Brazil

In Brazil, the Bankruptcy Law (11.101/05) governs court-ordered or out-of-court receivership and bankruptcy and only applies to public companies (publicly traded companies) with the exception of financial institutions, credit co-operatives, consortia, supplementary scheme entities, companies administering health care plans, equity companies and a few other legal entities. It does not apply to state-run companies.

Current law covers three legal proceedings. The first one is bankruptcy itself (“Falência”). Bankruptcy is a court-ordered liquidation procedure for an insolvent business. The final goal of bankruptcy is to liquidate company assets and pay its creditors.

The second one is Court-ordered Restructuring (*Recuperação Judicial*). The goal is to overcome the business crisis situation of the debtor in order to allow the continuation of the producer, the employment of workers and the interests of creditors, leading, thus, to preserving company, its corporate function and develop economic activity. It’s a court procedure required by the debtor which has been in business for more than two years and requires approval by a judge.

The Extrajudicial Restructuring (*Recuperação Extrajudicial*) is a private negotiation that involves creditors and debtors and, as with court-ordered restructuring, also has to be approved by courts.^[13]

2.5.4 Canada

Main article: [Insolvency law of Canada](#)

Bankruptcy, also referred to as insolvency in Canada, is governed by the [Bankruptcy and Insolvency Act](#) and is applicable to businesses and individuals. The office of the Superintendent of Bankruptcy, a federal agency, is responsible for overseeing that bankruptcies are administered in a fair and orderly manner by all licensed Trustees in Canada.

Trustees in bankruptcy, 1041 individuals licensed to administer insolvencies, bankruptcy and proposal estates and are governed by the Bankruptcy and Insolvency Act of Canada.

Bankruptcy is filed when a person or a company becomes insolvent and cannot pay their debts as they become due and if they have at least \$1,000 in debt.

In 2011, the Superintendent of bankruptcy reported that trustees in Canada filed 127,774 insolvent estates. Consumer estates were the vast majority, with 122 999 estates.^[14] The consumer portion of the 2011 volume is divided into 77,993 bankruptcies and 45,006 consumer proposals. This represented a reduction of 8.9% from 2010. Commercial estates filed by Canadian trustees in 2011 4,775 estates, 3,643 bankruptcies and 1,132 Division 1 proposals.^[15] This represents a reduction of 8.6% over 2010.

Duties of trustees

Some of the duties of the trustee in bankruptcy are to:

- Review the file for any fraudulent preferences or reviewable transactions
- Chair meetings of creditors
- Sell any non-exempt assets
- Object to the bankrupt’s discharge
- Distribute funds to creditors

Creditors’ meetings

Creditors become involved by attending creditors’ meetings. The [trustee](#) calls the first meeting of creditors for the following purposes:

- To consider the affairs of the bankrupt
- To affirm the appointment of the trustee or substitute another in place thereof
- To appoint inspectors
- To give such directions to the trustee as the creditors may see fit with reference to the administration of the estate.

Consumer proposals

Main article: [Consumer bankruptcy in Canada](#)

In Canada, a person can file a consumer proposal as an alternative to bankruptcy. A consumer proposal is a negotiated settlement between a debtor and their creditors.

A typical proposal would involve a debtor making monthly payments for a maximum of five years, with the funds distributed to their creditors. Even though most proposals call

for payments of less than the full amount of the debt owing, in most cases, the creditors will accept the deal, because if they do not, the next alternative may be personal bankruptcy, where the creditors will get even less money. The creditors have 45 days to accept or reject the consumer proposal. Once the proposal is accepted by both the creditors and the Court, the debtor makes the payments to the Proposal Administrator each month (or as otherwise stipulated in their proposal), and the general creditors are prevented from taking any further legal or collection action. If the proposal is rejected, the debtor is returned to his prior insolvent state and may have no alternative but to declare personal bankruptcy.

A consumer proposal can only be made by a debtor with debts to a maximum of \$250,000 (not including the mortgage on their principal residence). If debts are greater than \$250,000, the proposal must be filed under Division 1 of Part III of the *Bankruptcy and Insolvency Act*. An Administrator is required in the Consumer Proposal, and a Trustee in the Division I Proposal (these are virtually the same although the terms are not interchangeable). A Proposal Administrator is almost always a licensed trustee in bankruptcy, although the *Superintendent of Bankruptcy* may appoint other people to serve as administrators.

In 2006, there were 98,450 personal insolvency filings in Canada: 79,218 bankruptcies and 19,232 consumer proposals.^[16]

2.5.5 China

Main article: *Bankruptcy in China*

The People's Republic of China legalized bankruptcy in 1986, and a revised law that was more expansive and complete was enacted in 2007.

2.5.6 Ireland

Bankruptcy in Ireland applies only to natural persons. Other insolvency processes including liquidation and examinership are used to deal with corporate insolvency.

Irish bankruptcy law has been the subject of significant comment, from both government sources and the media, as being in need of reform. Part 7 of the Civil Law (Miscellaneous Provisions) Act 2011^[17] has started this process and the government has committed to further reform.

2.5.7 India

India does not have a clear law on corporate bankruptcy even though individual bankruptcy laws have been in existence since 1874. The current law in force was enacted in 1920 called the Provincial Insolvency Act.

The legal definitions of the terms bankruptcy, insolvency, liquidation and dissolution are contested in the Indian legal system. There is no regulation or statute legislated upon bankruptcy which denotes a condition of inability to meet a demand of a creditor as is common in many other jurisdictions.

Winding up of companies is in the jurisdiction of the courts which can take a decade even after the company has actually been declared insolvent. On the other hand, supervisory restructuring at the behest of the *Board of Industrial and Financial Reconstruction* is generally undertaken using receivership by a public entity.

2.5.8 The Netherlands

Dutch bankruptcy law is governed by the Dutch Bankruptcy Code (*Faillissementswet*). The code covers three separate legal proceedings.

- The first is the bankruptcy (*Faillissement*). The goal of the bankruptcy is the liquidation of the assets of the company. The bankruptcy applies to individuals and companies.
- The second legal proceeding in the *Faillissementswet* is the *Surseance van betaling*. The *Surseance van betaling* only applies to companies. Its goal is to reach an agreement with the creditors of the company. Its is comparable to filing for protection against creditors.
- The third proceeding is the *Schuldsanering*. This proceeding is designed for individuals only and is the result of a court ruling. The judge appoints a monitor. The monitor is an independent third party who monitors the individual's ongoing business and decides about financial matters during the period of the "Schuldsanering". The individual can travel out of the country freely after the judge's decision on the case.

2.5.9 Russia

Main article: *Insolvency law of Russia*

Federal Law No. 127-FZ "On Insolvency (Bankruptcy)" dated 26 October 2002 (as amended) (the "Bankruptcy

Act”), replacing the previous law in 1998, to better address the above problems and a broader failure of the action. Russian insolvency law is intended for a wide range of borrowers: individuals and companies of all sizes, with the exception of state-owned enterprises, government agencies, political parties and religious organizations. There are also special rules for insurance companies, professional participants of the securities market, agricultural organizations and other special laws for financial institutions and companies in the **natural monopolies** in the energy industry. Federal Law No. 40-FZ “On Insolvency (Bankruptcy)” dated 25 February 1999 (as amended) (the “Insolvency Law of Credit Institutions”) contains special provisions in relation to the opening of insolvency proceedings in relation to the credit company. Insolvency Provisions Act, credit organizations used in conjunction with the provisions of the Bankruptcy Act.

Bankruptcy law provides for the following stages of insolvency proceedings: • Observation Control (nablyudeniye); • The economic recovery (finansovoe ozdorovleniye); • External control (vneshneye upravleniye); • Liquidation (konkursnoye proizvodstvo) and • Comprehensive Agreement (mirovoye soglasheniye).

The main face of the bankruptcy process is the **insolvency officer (trustee in bankruptcy)**. At various stages of bankruptcy, he has to be determined: the temporary officer, external control, the receiver or administrative officer. During the bankruptcy trustee in bankruptcy (insolvency officer) has a decisive influence on the movement of assets (property) of the debtor - the debtor and has a key influence on the economic and legal aspects of its operations.

2.5.10 South Africa

Main article: **South African insolvency law**

2.5.11 Switzerland

Main article: **Insolvency law of Switzerland**

Under **Swiss** law, bankruptcy can be a consequence of **insolvency**. It is a court-ordered form of debt enforcement proceedings that applies, in general, to registered commercial entities only. In a bankruptcy, all assets of the debtor are liquidated under the administration of the creditors, although the law provides for debt restructuring options similar to those under Chapter 11 of the U.S. Bankruptcy code.



Bankruptcy according to Salvation Army, Switzerland.

2.5.12 Sweden

In Sweden, bankruptcy (Swedish: konkurs) is a formal process that may involve a company or individual. It is not the same as **insolvency**, which is inability to pay debts that should have been paid. A creditor or the company itself can apply for bankruptcy. An external bankruptcy manager will take over the company or the assets of the person, trying to sell as much as possible. A person or a company in bankruptcy can not access its assets (with some exceptions).

The formal bankruptcy process is rarely carried out for individuals.^[18] Creditors can claim money through the **Enforcement Administration** anyway, and creditors do not usually benefit from the bankruptcy of individuals because there are costs of a bankruptcy manager which has priority. Unpaid debts remain after bankruptcy for individuals. People who are deeply in debt can obtain a debt arrangement procedure (Swedish: skuldsanering). On application, they obtain a payment plan under which they pay as much as they can for five years, and then all remaining debts are cancelled. Debts that are derived from being subjected to a ban on business operations (issued by court, commonly for tax fraud and/or fraudulent business practices) or owed to a crime victim as compensation for damages, are exempted from this and like before this process was introduced in 2006 will remain lifelong.^[19] Debts that have not been claimed during a 3-10 year period will be cancelled. Often crime victims stop their claims after a few years since criminals often do not have job incomes and might be hard to locate, while banks make sure the claims are not cancelled. The most common reasons for personal insolvency in Sweden are illness, unemployment, divorce or company bankruptcy, not the reckless spending claimed by politicians and debt collection agencies when they describe the problem with deep personal debts.^[20]

2.5.13 United Kingdom

Main articles: UK insolvency law, Liquidation and Administration (insolvency)

Bankruptcy in the United Kingdom (in a strict legal sense) relates only to individuals (including sole proprietors) and partnerships. Companies and other corporations enter into differently named legal insolvency procedures: liquidation and administration (administration order and administrative receivership). However, the term 'bankruptcy' is often used when referring to companies in the media and in general conversation. Bankruptcy in Scotland is referred to as sequestration. To apply for bankruptcy in Scotland, an individual must have more than £1500 of debt.

A trustee in bankruptcy must be either an Official Receiver (a civil servant) or a licensed insolvency practitioner. Current law in England and Wales derives in large part from the Insolvency Act 1986. Following the introduction of the Enterprise Act 2002, a UK bankruptcy will now normally last no longer than 12 months and may be less, if the Official Receiver files in court a certificate that his investigations are complete. It was expected that the UK Government's liberalisation of the UK bankruptcy regime would increase the number of bankruptcy cases; initially cases increased, as the Insolvency Service statistics appear to bear out. Since 2009, the introduction of the Debt Relief Order has resulted in a dramatic fall in bankruptcies, the latest estimates for year 2014/15 being significantly less than 30,000 cases.

Pensions

The UK bankruptcy law was changed in May 2000, effective May 29, 2000. Debtors may now retain occupational pensions while in bankruptcy, except in rare cases.

Proposed reform

The Government are currently considering legislation to 'streamline' the bankruptcy process in the UK. Under the new proposals, struggling borrowers may be able to apply for bankruptcy without necessarily having to go to court, except where a disagreement exists between the debtor and their creditors.^[21]

2.5.14 United States

Main article: Bankruptcy in the United States

Bankruptcy in the United States is a matter placed under federal jurisdiction by the United States Constitution (in Article 1, Section 8, Clause 4), which allows Congress to enact "uniform laws on the subject of bankruptcies



In 2013, Detroit filed the largest municipal bankruptcy case in U.S. history.

throughout the United States". The Congress has enacted statutes governing bankruptcy, primarily in the form of the Bankruptcy Code, located at Title 11 of the United States Code. Federal law is amplified by state law in some places where Federal law fails to speak or expressly defers to state law.

While bankruptcy cases are always filed in United States Bankruptcy Court (an adjunct to the U.S. District Courts), bankruptcy cases, particularly with respect to the validity of claims and exemptions, are often dependent upon State law. One example: two states, Maryland and Virginia, which are adjoining states, have different personal exemption amounts that cannot be seized for payment of debts. This amount is the first \$6,000 in property or cash in Maryland, but only the first \$5,000 in Virginia. State law therefore plays a major role in many bankruptcy cases, and it is often not possible to generalize bankruptcy law across state lines.

Generally, a debtor declares bankruptcy to obtain relief from debt, and this is accomplished either through a discharge of the debt or through a restructuring of the debt. Generally, when a debtor files a voluntary petition, his or her bankruptcy case commences.

Chapters

There are six types of bankruptcy under the Bankruptcy Code, located at Title 11 of the United States Code:

- **Chapter 7:** basic liquidation for individuals and businesses; also known as straight bankruptcy; it is the simplest and quickest form of bankruptcy available
- **Chapter 9:** municipal bankruptcy; a federal mechanism for the resolution of municipal debts
- **Chapter 11:** rehabilitation or reorganization, used primarily by business debtors, but sometimes by individ-

uals with substantial debts and assets; known as corporate bankruptcy, it is a form of corporate financial reorganisation which typically allows companies to continue to function while they follow debt repayment plans

- **Chapter 12:** rehabilitation for family farmers and fishermen;
- **Chapter 13:** rehabilitation with a payment plan for individuals with a regular source of income; enables individuals with regular income to develop a plan to repay all or part of their debts; also known as Wage Earner Bankruptcy
- **Chapter 15:** ancillary and other international cases; provides a mechanism for dealing with bankruptcy debtors and helps foreign debtors to clear debts.

The most common types of **personal bankruptcy** for individuals are Chapter 7 and Chapter 13. Whether a person qualifies for Chapter 7 or Chapter 13 is in part determined by income.^[22] As much as 65% of all U.S. consumer bankruptcy filings are Chapter 7 cases. Corporations and other business forms file under Chapters 7 or 11. Often called “straight bankruptcy” or “simple bankruptcy,” it allows consumers to eliminate just about all of their debts over a period of three or four months. Typically, the only bills that survive a Chapter 7 are student loans, child support obligations, some tax bills and criminal fines. Credit cards, pay day loans, personal loans, medical bills, and just about all other bills are discharged.

91% of U.S. individuals filing bankruptcy hire an attorney to file their Chapter 7 petition.^[23] The typical cost of an attorney is \$1,170.00.^[23] Alternatives to filing with an attorney are: filing pro se, meaning without an attorney, which requires an individual to fill out at least sixteen separate forms,^[24] hiring a petition preparer (which have a track record of shoddy work and unsuccessful cases),^[25] or using online software to generate the petition.

In Chapter 7, a debtor surrenders his or her non-exempt property to a bankruptcy trustee who then liquidates the property and distributes the proceeds to the debtor’s unsecured creditors. In exchange, the debtor is entitled to a discharge of some debt; however, the debtor will not be granted a discharge if he or she is guilty of certain types of inappropriate behavior (e.g., concealing records relating to financial condition) and certain debts (e.g., spousal and child support, most student loans). Some taxes will not be discharged even though the debtor is generally discharged from his or her debt. Many individuals in financial distress own only exempt property (e.g., clothes, household goods, an older car, or the tools of their trade or profession) and will not have to surrender any property to the trustee.^[26]

The amount of property that a debtor may exempt varies from state to state (as noted above, Virginia and Maryland have a \$1,000 difference.) Chapter 7 relief is available only once in any eight-year period. Generally, the rights of secured creditors to their collateral continues even though their debt is discharged. For example, absent some arrangement by a debtor to surrender a car or “reaffirm” a debt, the creditor with a **security interest** in the debtor’s car may repossess the car even if the debt to the creditor is discharged.

The 2005 amendments to the Bankruptcy Code introduced the “means test” for eligibility for chapter 7. An individual who fails the means test will have his or her chapter 7 case dismissed or may have to convert his or her case to a case under chapter 13.

Generally, a trustee will sell most of the debtor’s assets to pay off creditors. However, certain assets of the debtor are protected to some extent. For example, Social Security payments, unemployment compensation, and limited values of equity in a home, car, or truck, household goods and appliances, trade tools, and books are protected. However, these exemptions vary from state to state.

In Chapter 13, the debtor retains ownership and possession of all of his or her assets, but must devote some portion of his or her future income to repaying creditors, generally over a period of three to five years. The amount of payment and the period of the repayment plan depend upon a variety of factors, including the value of the debtor’s property and the amount of a debtor’s income and expenses. Secured creditors may be entitled to greater payment than unsecured creditors.^[27]

Relief under Chapter 13 is available only to individuals with regular income whose debts do not exceed prescribed limits. If you are an individual or a sole proprietor, you are allowed to file for a Chapter 13 bankruptcy to repay all or part of your debts. Under this chapter, you can propose a repayment plan in which to pay your creditors over three to five years. If your monthly income is less than the state’s median income, your plan will be for three years unless the court finds “just cause” to extend the plan for a longer period. If your monthly income is greater than your state’s median income, the plan must generally be for five years. A plan cannot exceed the five-year limitation.

In contrast to Chapter 7, the debtor in Chapter 13 may keep all of his or her property, whether or not exempt. If the plan appears feasible and if the debtor complies with all the other requirements, the bankruptcy court will typically confirm the plan and the debtor and creditors will be bound by its terms. Creditors have no say in the formulation of the plan other than to object to the plan, if appropriate, on the grounds that it does not comply with one of the Code’s statutory requirements. Generally, the payments are made to a trustee who in turn disburses the funds in accordance

with the terms of the confirmed plan.

When the debtor completes payments pursuant to the terms of the plan, the court will formally grant the debtor a discharge of the debts provided for in the plan. However, if the debtor fails to make the agreed upon payments or fails to seek or gain court approval of a modified plan, a bankruptcy court will often dismiss the case on the motion of the trustee. Pursuant to the dismissal, creditors will typically resume pursuit of state law remedies to the extent a debt remains unpaid.

In Chapter 11, the debtor retains ownership and control of assets and is re-termed a *debtor in possession* (DIP). The debtor in possession runs the day-to-day operations of the business while creditors and the debtor work with the Bankruptcy Court in order to negotiate and complete a plan. Upon meeting certain requirements (e.g., fairness among creditors, priority of certain creditors) creditors are permitted to vote on the proposed plan. If a plan is confirmed the debtor will continue to operate and pay its debts under the terms of the confirmed plan. If a specified majority of creditors do not vote to confirm a plan, additional requirements may be imposed by the court in order to confirm the plan. Debtors filing for Chapter 11 protection a second time are known informally as “Chapter 22” filers.^[28]

Chapter 7 and Chapter 13 are the efficient bankruptcy chapters often used by most individuals. The chapters which almost always apply to consumer debtors are chapter 7, known as a “straight bankruptcy”, and chapter 13, which involves an affordable plan of repayment. An important feature applicable to all types of bankruptcy filings is the automatic stay. The automatic stay means that the mere request for bankruptcy protection automatically halts most lawsuits, repossessions, foreclosures, evictions, garnishments, attachments, utility shut-offs, and debt collection activity.

Exemptions

A Bankruptcy Exemption defines the property a debtor may retain and preserve through bankruptcy. Certain real and personal property can be exempted on “Schedule C”^[29] of a debtors bankruptcy forms, and effectively be taken outside the debtor’s bankruptcy estate. Bankruptcy Exemptions are available only to individuals filing bankruptcy.^[30] There are two alternative systems that can be used to “exempt” property from a bankruptcy estate, Federal Exemptions^[31] (available in some states but not all), and State Exemptions (which vary widely between states).

Individuals filing bankruptcy that claim exemptions must have all exemptions agreed upon by their bankruptcy judge (and/or courts) and by their creditors. This step usually requires the help of lawyers, in which the sector of Bankruptcy Law has grown to become a large section of

the law field. That said, new software providers are beginning to develop products letting consumers operate without an attorney.^[32] This sector, the combination of law and finance, has attracted a large number of students in recent years, and has been given a large undertaking for growing the law sector.

Bankruptcy Abuse Prevention and Consumer Protection Act

The **Bankruptcy Abuse Prevention and Consumer Protection Act** (BAPCPA) of 2005, Pub. L. No. 109-8, 119 Stat. 23 (April 20, 2005) (“BAPCPA”), substantially amended the Bankruptcy Code. Many provisions of BAPCPA were forcefully advocated by consumer lenders and were just as forcefully opposed by many consumer advocates, bankruptcy academics, bankruptcy judges, and bankruptcy lawyers.^[33] The enactment of BAPCPA followed nearly eight years of debate in Congress. According to the book, *The Unwinding*, Joe Biden, Chris Dodd, and Hillary Clinton helped pass this bill.^[34] Most of the law’s provisions became effective on October 17, 2005. Upon signing the bill, President Bush stated:

Under the new law, Americans who have the ability to pay will be required to pay back at least a portion of their debts. Those who fall behind their state’s median income will not be required to pay back their debts. The new law will also make it more difficult for serial filers to abuse the most generous bankruptcy protections. Debtors seeking to erase all debts will now have to wait eight years from their last bankruptcy before they can file again. The law will also allow us to clamp down on bankruptcy mills that make their money by advising abusers on how to game the system.

— [35]

It was widely claimed by advocates of BAPCPA that its passage would reduce losses to creditors such as credit card companies, and that those creditors would then pass on the savings to other borrowers in the form of lower interest rates. These claims turned out to be false. After BAPCPA passed, although credit card company losses decreased, prices charged to customers increased, and credit card company profits soared.^[36]

Among its many changes to consumer bankruptcy law, BAPCPA enacted a “means test”, which was intended to make it more difficult for a significant number of financially distressed individual debtors whose debts are primarily consumer debts to qualify for relief under Chapter 7 of

the Bankruptcy Code. The “means test” is employed in cases where an individual with primarily consumer debts has more than the average annual income for a household of equivalent size, computed over a 180-day period prior to filing. If the individual must “take” the “means test”, their average monthly income over this 180 day period is reduced by a series of allowances for living expenses and secured debt payments in a very complex calculation that may or may not accurately reflect that individual’s actual monthly budget. If the results of the means test show no disposable income (or in some cases a very small amount) then the individual qualifies for Chapter 7 relief. If a debtor does not qualify for relief under Chapter 7 of the Bankruptcy Code, either because of the Means Test or because Chapter 7 does not provide a permanent solution to delinquent payments for secured debts, such as mortgages or vehicle loans, the debtor may still seek relief under Chapter 13 of the Code. A Chapter 13 plan often does not require repayment to general unsecured debts, such as credit cards or medical bills.

BAPCPA also requires individuals seeking bankruptcy relief to undertake **credit counselling** with approved counseling agencies prior to filing a bankruptcy petition and to undertake education in personal financial management from approved agencies prior to being granted a discharge of debts under either Chapter 7 or Chapter 13. Some studies of the operation of the credit counseling requirement suggest that it provides little benefit to debtors who receive the counseling because the only realistic option for many is to seek relief under the Bankruptcy Code.^[37]

2.5.15 Europe

During 2004, the number of insolvencies reached all time highs in many European countries. In **France**, company insolvencies rose by more than 4%, in **Austria** by more than 10%, and in **Greece** by more than 20%. The increase in the number of insolvencies, however, does not indicate the total financial impact of insolvencies in each country because there is no indication of the size of each case. An increase in the number of bankruptcy cases does not necessarily entail an increase in bad debt write-off rates for the economy as a whole.

Bankruptcy statistics are also a trailing indicator. There is a time delay between financial difficulties and bankruptcy. In most cases, several months or even years pass between the financial problems and the start of bankruptcy proceedings. Legal, tax, and cultural issues may further distort bankruptcy figures, especially when comparing on an international basis. Two examples:

- In **Austria**, more than half of all potential bankruptcy proceedings in 2004 were not opened, due to insuffi-

cient funding.

- In **Spain**, it is not economically profitable to open insolvency/bankruptcy proceedings against certain types of businesses, and therefore the number of insolvencies is quite low. For comparison: In **France**, more than 40,000 insolvency proceedings were opened in 2004, but under 600 were opened in Spain. At the same time the average bad debt write-off rate in France was 1.3% compared to Spain with 2.6%.

The insolvency numbers for private individuals also do not show the whole picture. Only a fraction of heavily indebted households will decide to file for insolvency. Two of the main reasons for this are the stigma of declaring themselves insolvent and the potential business disadvantage.

2.6 See also

- **Bankruptcy Act**
- **Bankruptcy alternatives**
- **Creditor’s rights**
- **Debt consolidation**
- **Debt relief**
- **Debt restructuring**
- **Debtor in possession**
- **Default**
- **DIP Financing**
- **Distressed securities**
- **Financial distress**
- **Individual voluntary arrangement**
- **Insolvency**
- **Judicial estoppel**
- **Liquidation**
- **Protected trust deed**
- **Sole Trader Insolvency (UK)**
- **Stalking Horse Agreement**
- **Tools of trade**
- **Turnaround ADR**

2.7 References

- [1] Frank Olds Loveland (1912). *A treatise on the law and proceedings in bankruptcy*. The W.H. Anderson Co. pp. 4–.
- [2] “Bankrupt”. Online Etymology Dictionary. Retrieved 22 April 2014.
- [3] “Bankrupt”. Dictionary.com.
- [4] “Bankrupt - Definition and More from the Free Merriam-Webster Dictionary”. Merriam-Webster Dictionary. Retrieved 22 April 2014.
- [5] “Bankrupt”. Oxford Dictionaries. Retrieved 22 April 2014.
- [6] “Bankruptcy”. 1911 Encyclopædia Britannica
- [7] Carmen M. Reinhart, Kenneth S. Rogoff (2009). *This time is different: eight centuries of financial folly*. Princeton University Press. p.30. ISBN 0-691-14216-5
- [8] Dubois & Anderson (2010) Managing household debts: Social service provision in the EU. Working paper. Dublin: European Foundation for the Improvement of Living and Working Conditions. euro found.europa.eu
- [9] [http://www.studentloanborrowerassistance.org/bankruptcy/\[SLBA Student Loan Assistance\]](http://www.studentloanborrowerassistance.org/bankruptcy/[SLBA Student Loan Assistance])
- [10] See 140 Cong. Rec. S14, 461 (daily ed. Oct. 6, 1994).
- [11] See 18 U.S.C. sec 152. trac.syr.edu.
- [12] “AFSA”. AFSA. 2011-12-31. Retrieved 2012-04-17.
- [13] “Brazil. Law 11,105/05”. Planalto.gov.br. 2005-02-09. Retrieved 2012-04-17.
- [14] “Insolvency Statistics in Canada—2011 (Table 2) - Office of the Superintendent of Bankruptcy Canada”. Ic.gc.ca. Retrieved 2013-07-20.
- [15] “Insolvency Statistics in Canada—2011 (Table 3) - Office of the Superintendent of Bankruptcy Canada”. Ic.gc.ca. Retrieved 2013-07-20.
- [16] “Insolvency in Canada in 2006”: Office of the Superintendent of Bankruptcy (Industry Canada). Retrieved 2007-05-30.
- [17] “Part 7 of the Civil Law Miscellaneous Provisions Act 2011”. Retrieved 21 September 2011.
- [18] “Konkurs – Vad är konkurs?” (in Swedish). Skatteverket.se. 2009-05-28. Retrieved 2012-04-17.
- [19] “Evighetsgäldenärer, synpunkter från Skatteverket 2004 Skatteverkets skrivelse 041229” (in Swedish). Fattiga.se. Retrieved 2012-04-17.
- [20] “Välkommen till Insolvens!”. *Insolvens.se*. Retrieved 2012-04-17.
- [21] “New streamlined application process proposed for bankruptcy and compulsory winding up”: The Insolvency Service. 07 November 2011 14:31. Retrieved 2011-11-10.
- [22] “Bankruptcy Means Test Calculator”. LegalConsumer.
- [23] <http://www.uscourts.gov/uscourts/Statistics/BankruptcyStatistics/BAPCPA/2013/Tables2A-2X.pdf>
- [24] <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>
- [25] <http://www.nytimes.com/2002/08/13/us/preparing-petitions-it-irks-the-lawyers-but-is-it-lawyering.html>
- [26] “What Are Bankruptcy Exemptions?”. Legal Nature. Retrieved November 30, 2015.
- [27] *Chapter 13 Bankruptcy*. Taieb Law. 27 January 2014. Retrieved April 22, 2014.
- [28] Spector, Mike; Jargon, Julie (January 10, 2012). “Twinkies Maker Preparing for Chapter 11 Filing”. *The Wall Street Journal*.
- [29] “Schedule C- Property Claimed as Exempt” (PDF). Retrieved 2014-03-08.
- [30] “Bankruptcy Exemptions Available to Individuals”. Uscourts.gov. Retrieved 2014-03-08.
- [31] “Federal Bankruptcy Exemptions: 11 USC § 522”. Law.cornell.edu. Retrieved 2014-03-08.
- [32] “File Bankruptcy Yourself”. filebankruptcyyourself.org. Retrieved 2015-03-02.
- [33] “Hearing before the Senate Judiciary Committee on Bankruptcy Reform”, 109th Cong. February 10, 2005. Retrieved July 30, 2007.
- [34] Packer, George (2013). *The Unwinding, an inner history of the New America*. New York: Farrar, Straus, and Giroux. p. 348. ISBN 978-0-374-10241-8. In 2005, with the help of Democrats like Joe Biden and Chris Dodd and Hillary Clinton, Congress passed a law restricting the right to file for bankruptcy.
- [35] Press Release, White House, “President Signs Bankruptcy Abuse Prevention, Consumer Protection Act” (April 20, 2005). Retrieved July 30, 2007.
- [36] Michael Simkovic, “The Effect of BAPCPA on Credit Card Industry Profits and Prices” *Berkeley Business Law Journal*, Vol. 6, No. 1, Spring 2009
- [37] Jones, Yvonne D. (2007). “Bankruptcy Reform: Value of Credit Counseling Requirement Is Not Clear (GAO-07-203)”. Washington, D.C.: Government Accountability Office. p. (Highlights). LCCN 2007414394. OCLC 156274430.

2.8 Further reading

- Balleisen, Edward (2001). *Navigating Failure: Bankruptcy and Commercial Society in Antebellum America*. Chapel Hill: University of North Carolina Press. p. 322. ISBN 0-8078-2600-6.
- DePamphilis, Donald M. (2009). *Mergers, Acquisitions, and Other Restructurings, 5th Edition*. Elsevier, Academic Press. ISBN 978-0-12-374878-2.
- Mańko, Rafał. “Cross-border insolvency law in the EU” (PDF). *Library Briefing*. Library of the European Parliament. Retrieved 21 February 2013.
- Sandage, Scott A. (2006). *Born Losers: A History of Failure in America*. Cambridge, Mass.: Harvard University Press. ISBN 0-674-02107-X.
- Zywicki, Todd J. (2008). “Bankruptcy”. In David R. Henderson (ed.). *Concise Encyclopedia of Economics* (2nd ed.). Indianapolis: Library of Economics and Liberty. ISBN 978-0-86597-665-8. OCLC 237794267.

2.9 External links

- [U.S. Federal Bankruptcy Courts](#)
- [Official U.S. Bankruptcy Statistics](#)
- [US Courts Bankruptcy Law](#)
- [Executive Office for United States Bankruptcy Trustees](#)
- [Cornell Bankruptcy Laws](#)
- [National Association of Consumer Bankruptcy Attorneys](#)
- [Bankruptcy Research Database \(WebBRD\)](#)
- [Website of the Insolvency Service in the UK](#)
- [Bankruptcy Statistics in Hong Kong](#)
- [Glossary of Consumer Proposal Terms](#)
- [Official Means Testing Information](#)

Chapter 3

Financial distress

Financial distress is a term in **corporate finance** used to indicate a condition when promises to **creditors** of a company are broken or honored with difficulty. If financial distress cannot be relieved, it can lead to **bankruptcy**. Financial distress is usually associated with some costs to the company; these are known as *costs of financial distress*.

3.1 Cost of financial distress

A common example of a cost of financial distress are bankruptcy costs. These direct costs include auditors' fees, legal fees, management fees and other payments. Cost of financial distress can occur even if bankruptcy is avoided (indirect costs).

Financial distress in companies requires management attention and might lead to reduced attention on the operations of the company.

Another source of indirect costs of financial distress are higher costs of capital as usually banks increase the interest rates if a state of financial distress occurs.

3.2 Options for relieving financial distress

If high debt burden is the cause of financial distress, the company can undergo a **debt restructuring**. If operational issues are the reason for the distress, the company can negotiate a payment holiday with its creditors and improve operations to be again able to service its debt.

3.3 External links

- Indicators and Sources of Financial Distress
- *Predicting Financial Distress of Companies: Revisiting the Z-Score and Zeta Models* by Edward Altman

- *Financial Distress, Bankruptcy Law, and the Business Cycle* by Javier Suarez and Oren Sussman
- *The Costs of Financial Distress across Industries* by Arthur Korteweg
- Insolvency Service website
- Probability of bankruptcy screener for public companies based on Altman Z Score

Chapter 4

Creditor

“Creditors” redirects here. For the 1889 play by August Strindberg, see [Creditors \(play\)](#). For the Swedish film, see [Creditors \(1988 film\)](#). For the British film by Ben Cura, see [Creditors \(2016 film\)](#).

A **creditor** is a [party](#) (e.g. person, organization, company, or government) that has a claim on the services of a second party. It is a person or institution to whom money is owed.^[1] The first party, in general, has provided some [property](#) or [service](#) to the second party under the assumption (usually enforced by [contract](#)) that the second party will return an equivalent property and service. The second party is frequently called a [debtor](#) or [borrower](#). The first party is the creditor, which is the lender of property, service or money.

The term creditor is frequently used in the financial world, especially in reference to short-term loans, long-term bonds, and [mortgage loans](#). In law, a person who has a money judgment entered in their favor by a court is called a judgment creditor.

The term creditor derives from the notion of [credit](#). Also, in modern America, credit refers to a rating which indicates the likelihood a borrower will pay back his or her loan. In earlier times, credit also referred to reputation or trustworthiness.

4.1 Accounting classification

In [accounting](#) presentation, creditors are to be broken down into 'amounts falling due within one year' or 'amounts falling due after more than one year'...

The [financial statements](#) presentation is this:

- Long-term liabilities
 - 'Long-term creditors'
- Current liabilities
 - 'Current creditors'

4.2 Creditors Power During Insolvency

In the UK, once an [IVA](#) has been applied for, and is in place through the courts, creditors are prevented from making direct contact under the terms of the IVA. All ongoing correspondence of an IVA must first go through the [Insolvency Practitioner](#). The Insolvency Practitioner will contact you. The creditors will begin to deal with the Insolvency Practitioner and readily accept annual reports when submitted.

4.3 See also

- [Accounts payable](#)
- [Accruals](#) and deferred income
- [Bank loan](#) and [Overdrafts](#)
- [Bill of exchange payable](#)
- [Creditor's rights](#)
- [Debenture loans](#)
- [Individual Voluntary Arrangement](#)
- [Intra-group accounts owed](#)
- [IOU \(I Owe You\)](#)
- [Payments received on account](#)
- [Proposed dividends](#)
- [Trade creditors](#)

4.4 References

- [1] Sullivan, arthur; Steven M. Sheffrin (2003). *Economics: Principles in action*. Upper Saddle River, New Jersey 07458: Pearson Prentice Hall. p. 264. ISBN 0-13-063085-3.

4.5 External links

- [Insolvency Practitioners Association Website](#)

Chapter 5

Debtor

“borrower” redirects here. For other uses, see [The Borrowers](#) (disambiguation).

A **debtor** is an entity that owes a **debt** to another entity. The entity may be an individual, a firm, a government, a company or other **legal person**. The **counterparty** is called a **creditor**. When the counterpart of this **debt** arrangement is a **bank**, the debtor is more often referred to as a **borrower**.

If X borrowed money from his/her **bank**, X is the debtor and the **bank** is the **creditor**. If X puts money in the **bank**, X is the **creditor** and the **bank** is the debtor.

It is not a crime to fail to pay a debt. Except in certain bankruptcy situations, debtors can choose to pay debts in any priority they choose. But if you've failed to pay a debt, you have broken a contract or agreement between you and a creditor. Generally, most oral and written agreements for the repayment of **consumer debt** - debts for personal, family or household purposes secured primarily by a person's residence - are enforceable. ^[1]

However, for the most part, debts that are business related must be made in writing to be enforceable by law. If the written agreement requires the debtor to pay a specific amount of money, then the creditor does not have to accept any lesser amount, and should be paid in full.

Also, if there was no actual agreement but the creditor has proven to have loaned an amount of money, undertaken services or given the debtor a product, the debtor must then pay the creditor.

5.1 The history of the term “debtor”

Anthropologist David Graeber suggests in *Debt: The First 5000 Years* that trading began with some form of credit namely the promise to pay later for already handed over goods. Because of this it can be said that debtors and creditors existed even before the implementation of coinage. ^[2]

The term debtor comes from the word debt, which origi-

nated from the French word dette, which came from the Latin word debere, meaning to owe. ^[3]

5.2 Types of Debtors

According to numbers released in March 31, 2013 by the U.S. Federal Reserve Board, household debt has passed the \$11 trillion mark in the United States. **Student loan debt** will also soon pass the trillion-dollar mark. ^[4]

There are many different types of debts, that can cause the debtor and creditor relationship to arise. Some of these areas include:

- Bank account debt
- Trade debtors (Most commonly used in Accounting terms)
- Car loan debt
- **Credit card debt**
- Council tax debt
- Gambling debt
- Legal court debt
- Loan shark debt
- Overdraft debt
- Parking fines
- Payday loan debt
- Personal loan debt
- Phone debt
- Utility bill debts

[5]

Being a debtor is not restricted to an individual, as in business there is also company debt. Many companies heavily invest into accountancy and rely on *insolvency* solutions to prevent debt from being left aside. ^[6]

5.3 Default

Main article: *Default (finance)*

Default occurs when the debtor has not met its legal obligations according to the debt contract, e.g.- it has not made a scheduled payment, or has violated a *covenant* in the debt contract. Default may occur if the debtor is either unwilling or unable to pay its debt. This can occur with all debt obligations including *bonds*, *mortgages*, *loans*, and *promissory notes*. ^[7]

If the debt owed becomes beyond the possibility of repayment, the debtor faces *insolvency* or *bankruptcy*; in the *United Kingdom* and some states of the *United States* until the mid-19th century, debtors could be imprisoned in *debtor's prisons*, while in some countries such as *Greece* debtors are still imprisoned.

5.4 Debtor in Bankruptcy and Individual Voluntary Arrangements

An *Individual Voluntary Arrangement* is a legally binding arrangement supervised by a licensed *Insolvency Practitioner*, the purpose of which is to enable an individual, sole trader or Partner ("the Debtor") to reach a compromise with his creditors and avoid the consequences of *bankruptcy*. The compromise should offer a larger repayment towards the creditor's debt than could otherwise be expected were the Debtor to be made bankrupt. This is often facilitated by the Debtor making contributions to the arrangement from his income over a designated period or from a third party contribution or other source that would not ordinarily be available to a Trustee in *Bankruptcy*. ^[8]

5.5 Other uses

In the Latin version of the *Lord's Prayer*, the words *Et dimitte nobis debita nostra/Sicut et nos dimittimus debitoribus nostris*, the words *Debtor* and *Debt* are sometimes translated as *Sinner* and *Sin*. This particular understanding of sin, as a form of debt that humanity inherits, is related to the soteriological theory of substitutionary atonement, which states

that Jesus died on the cross as a propitiation, or substitute, for sinners. ^[9]

5.6 See also

- *Administration order*
- *Administrative receivership*
- *Bankruptcy*
- *Creditor's rights*
- *Debtors' prison*
- *Liquidation*
- *Simplified Individual Voluntary Arrangement*
- *Protected Trust Deed* (only available in Scotland)

5.7 References

- [1] "Debtor". Investopedia. Retrieved 2014-08-23.
- [2] "Debt: The first 5000 years" (PDF). Unwelcome Guests. Retrieved 2014-08-21.
- [3] "debt". Dictionary.com. Retrieved 2014-08-27.
- [4] "Budgeting and Debt – Types of Debt". Investopedia. Retrieved 2014-08-24.
- [5] "Types of Debt". Stepchange. Retrieved 2014-09-04.
- [6] "Debt Collection". Jma Credit Control. Retrieved 2014-10-20.
- [7] "Default". Investopedia. Retrieved 2014-11-12.
- [8] "A guide to individual voluntary agreements". McTear Williams & Wood. Retrieved 2014-11-12.
- [9] "Debt". Merriam-Webster. Retrieved 2014-11-12.

5.8 External links

- *Insolvency Service website*
- *Insolvency Practitioners Association website*
- *Insolvency News*

Chapter 6

Individual voluntary arrangement

In England and Wales, an **individual voluntary arrangement** (IVA) is a formal alternative for individuals wishing to avoid **bankruptcy**.

The IVA was established by and is governed by Part VIII of the **Insolvency Act 1986** and constitutes a formal repayment proposal presented to a debtor's creditors via an **insolvency practitioner**. Usually (but not necessarily), the IVA comprises only the claims of unsecured creditors, leaving the rights of secured creditors largely unchanged. Insolvency practitioners charge initial and ongoing fees that are in addition to the debt.

An IVA is a **contractual arrangement with creditors** and can be as flexible as an individual's own circumstances; they can therefore be based on capital, income, third party payments or a combination of these.

In this process, a debtor who has enough money left over after priority creditors and essential expenses, may be able to arrange an individual voluntary arrangement.^[1] (After taking independent advice, debtors with less serious problems may wish to consider a **debt management plan**).

The analogous procedure for businesses is the **company voluntary arrangement**.

6.1 Process

Creditors take a decision at a creditors' meeting called to consider the IVA proposal. The return to creditors is often higher than they would receive in bankruptcy. A vote is taken – by value. 75% in value of those creditors who vote at the meeting by person or by proxy must agree in order for the arrangement to be approved. If any of those voting are 'associates' (usually business associates, friends and family) then a second count is taken and 50% of non-associated creditors must approve it.^[2]

IVAs were originally designed to provide relief to debts generated as a result of **business insolvency**. In recent years, increasing levels of consumer debt have led to many insolvent

individuals with non-business-generated debts seeking the legal protection offered within an IVA. IVAs may be popular with people who have large amounts of assets which they wish to protect. These assets, such as high-equity properties and expensive cars etc., are not directly at risk under an IVA – as they may be in a bankruptcy.^[3]

6.2 IVA or bankruptcy

An IVA is an alternative to **bankruptcy**, however they are not mutually exclusive. A person can propose an IVA after they have been made bankrupt.^[4] If an arrangement is approved post-bankruptcy then the debtor can apply to the Court for an annulment of the bankruptcy order - such IVAs can only be proposed whilst the bankrupt is undischarged. If an IVA is proposed after a bankruptcy order has been made, it is now also possible to nominate the **Official Receiver** to be the supervisor of the arrangement. The arrangements offered by the Official Receiver are typically very restricted and have not very popular. This type of arrangement is called a **fast track voluntary arrangement** and is only suitable in certain cases.

6.3 Advantages and disadvantages

The advantages and disadvantages of an IVA compared with other debt solutions are particular to a debtor's individual circumstances and professional advice should be sought to decide on the best option.

6.3.1 Stigma

An IVA is a private agreement between a debtor and creditors. As of April 6, 2009, bankruptcy is no longer advertised in the local newspaper, only in the *London Gazette*. Both debtors in an IVA and bankrupts are listed publicly on

the Personal Insolvency Register, and will be recorded by credit reference agencies.

6.3.2 Length

An income-based IVA can often last up to five years, although it can be any length. Homeowners may find their income based IVA term can be extended by 12 months in lieu of equity, if they own equity in a property which cannot be released into the IVA for the benefit of their creditors.^[5]

A bankrupt is normally automatically discharged after one year or less if the bankrupt is eligible for an early discharge. An income payments agreement or order in bankruptcy (if one is applied, depending on the individuals disposable income) will not last for more than three years and payments are generally much lower than under an income based IVA.

6.3.3 Obtaining credit

Unlike bankruptcy, an IVA does not statutorily restrict a debtor from obtaining credit, although the proposal may do so. In bankruptcy however one legally can obtain credit of up to £500 without disclosing one's status as a bankrupt.^[2] After a bankrupt is discharged there is nothing in law to stop the **discharged bankrupt** gaining credit.

6.3.4 Ability to trade

Bankruptcy will usually dissolve a partnership and prevent a debtor from acting as a director of a company. A self-employed trader will have to disclose the fact that he or she is bankrupt when obtaining credit, for example when dealing with suppliers. There are no such implications with an IVA, although lenders often ask.

6.3.5 Credit rating

Although arguably an IVA is seen as more positive than bankruptcy in the eyes of creditors, as it shows a certain commitment to repaying debt, in reality an IVA is likely to have an equally detrimental effect on a debtor's credit rating as bankruptcy. Usually a debtor's credit rating is already poor before an IVA or bankruptcy is considered however. Both bankruptcy and an IVA will stay on a debtor's credit file for six years from the start of the IVA or bankruptcy.^[6]

6.3.6 Fees

There are two separate fees payable in an IVA. Both of these fees are paid as part of the Arrangement and are included

in the monthly contributions made to the IVA. These fees do not generally affect the total amount payable, but instead reduce the final dividend that each creditor hopes to receive from the IVA. As a result, an Insolvency Practitioner must agree his fees with voting creditors before an IVA is accepted.

The **nominee's fee** is a fee charged in relation to the work performed up to the point when the IVA is agreed. It is reclaimed from payments into the IVA before any dividend is paid to creditors.

The **supervisor's fee** is an ongoing fee in relation to the work performed during an IVA. It is reclaimed from payments into the IVA at regular intervals, as agreed with voting creditors. This could be quarterly or annually depending on the rules stipulated in the individual's proposal.

Some debt management companies try to include an extra IVA arrangement fee.

6.3.7 The home

Perhaps the biggest advantage to an IVA over bankruptcy is the control the debtor may have over their home. In bankruptcy, the debtor's assets will vest in the Trustee (some assets are excluded, notably those used as **tools of trade**, ordinary household contents). This will usually include equity in their property and the trustee may force its sale. An IVA proposal may exclude the property altogether, or propose a re-mortgage or offer income based contributions for a longer period in lieu of the debtor's equitable interest in the property. The supervisor may register a restriction on the property to ensure that his or her consent is required before the property is, for example, sold or re-mortgaged.

6.3.8 Failure

If an IVA fails because an individual can not keep up with the repayments (or agree new terms with the trustee and creditors), then bankruptcy becomes a real possibility. Because a significant proportion of IVA repayments go towards payment of the nominee's and supervisor's fees, people who have failed an IVA often find they had not paid as much of the debt off as they had expected.

Additionally, creditors will also add on interest and charges to the debts from the meeting of creditors date to the date of failure (currently 8% per annum), thereby increasing the level of debt.

6.4 Roles of the insolvency practitioner

An IVA can only be administered by a licensed insolvency practitioner. At each stage of the IVA process, the insolvency practitioner's role changes.

6.4.1 Adviser

Further information: [Citizens Advice Bureau](#)

The adviser does not have to be an insolvency practitioner, though often is. The adviser should inform the debtor of all the solutions available, commonly including dealing with priority debts first, re-mortgage, consolidating debts into a loan, debt management, bankruptcy, a [Debt Relief Order](#), and IVA. The adviser should look at all the debtor's circumstances, what they own, what they owe, and their household income & expenditure to advise the best solution. The adviser can charge for debt advice or offer it within a charity capacity where they will not pay for the debt advice. Charitable debt advice agencies include [Citizens Advice Bureau](#), [StepChange](#), [Christians Against Poverty](#) & [Debt Support Trust](#).

6.4.2 Nominee

If an IVA is considered appropriate, the insolvency practitioner will become the nominee. There is a misapprehension that it is the nominee's role to advise the debtor on drafting a proposal to the creditors. This is not the case. The legislation is clear that this is the task of the debtor and his or her advisers, which nevertheless may be the nominee's firm.

It is instead the nominee's task to review the proposal on which he has been asked to act, and to report on it.

In practice, the proposal is generally a standard document which is modified to the each debtor's particular circumstance. Common terms will include:

An analysis of the debtor's income (A) and expenditure (B). From this, the debtor's disposable income is calculated (A)–(B) and this will become the amount that will be paid into the IVA periodically (usually monthly). The period is usually five years, but can be any length. The proposal will usually state that if the disposable income increases during the term of the IVA, the amount to be paid will also increase proportionately.

A background history explaining how the debtor's financial difficulties arose.

Details of any assets that are to be realised or excluded. For example, how the matrimonial home will be dealt with, pension schemes, share save schemes, vehicles, etc.

The ability to call future meetings of creditors in the event that circumstances change, to modify the terms of the IVA.

Restrictions on obtaining credit. This is because a debt incurred after the approval of the IVA could result in a bankruptcy petition from a creditor, which would almost certainly cause the IVA to fail.

6.4.3 Chairman

The Chairman will hold the meeting of creditors and negotiate with the debtor and creditors to approve the proposal. It is common for creditors to ask for modifications to the proposal at the meeting. Common modifications put forward by major banks include restricting the debtor from obtaining credit, ensuring payments increase if the debtor's income increases, specifying a minimum return such as 40 pence in the pound, and insisting that the supervisor fails the IVA if the debtor misses 3 or more payments, and petitions for the debtor's bankruptcy.

6.4.4 Supervisor

If the IVA is approved, the insolvency practitioner named as supervisor in the approved IVA becomes the Supervisor of the IVA. This involves reporting annually to the creditors, debtor and the court. It also involves monitoring that the debtor is complying with the terms of the arrangement, agreeing creditor claims, making payments to creditors and generally ensuring that the arrangement progresses in accordance with the terms of the proposal. The debtor must comply with all reasonable requests of the supervisor, which may include periodically providing bank statements, accounts, wage slips etc.

6.5 See also

- [Administrations](#)
- [Administrative receiverships](#)
- [Bankruptcy](#)
- [Citizens Advice Bureau](#)
- [Company voluntary arrangement](#) (the equivalent for companies)
- [Liquidations](#)
- [Trust deeds](#) (only available in Scotland)

- Simplified individual voluntary arrangement
- Sole trader insolvency

6.6 Notes

- [1] Options for paying off your debts HM Government.
- [2] “Insolvency Act 1986”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [3] The Insolvency Service. “d. Individual voluntary arrangements” Retrieved on 2010-04-11.
- [4] The Insolvency Service. “d. Individual voluntary arrangements” Retrieved on 2010-04-11.
- [5] “Alternatives to Bankruptcy”. *gov.uk*. Crown. Retrieved 30 July 2014.
- [6] “Factsheet: Individual voluntary arrangements and bankruptcy”. The Guardian. Retrieved 30 July 2014.

6.7 External links

- Insolvency Service website

Chapter 7

Liquidation

For the process of a solid literally becoming a liquid, see *liquefaction*. For other uses, see *Wind up* (disambiguation) or *Liquidation* (disambiguation).

In United Kingdom law and business, **liquidation** is the process by which a *company* (or part of a company) is brought to an end, and the assets and property of the company are redistributed. Liquidation is also sometimes referred to as **winding-up** or **dissolution**, although dissolution technically refers to the last stage of liquidation. The process of liquidation also arises when *customs*, an *authority* or *agency* in a *country* responsible for collecting and safeguarding *customs duties*, determines the final computation or ascertainment of the duties or drawback accruing on an entry.^[1]

Liquidation may either be compulsory (sometimes referred to as a *creditors' liquidation*) or voluntary (sometimes referred to as a *shareholders' liquidation*, although some voluntary liquidations are controlled by the creditors, see below).

7.1 Compulsory liquidation

The parties who are entitled by law to *petition* for the compulsory liquidation of a company vary from jurisdiction to jurisdiction, but generally, a petition may be lodged with the court for the compulsory liquidation of a company by:

- The company itself
- Any *creditor* who establishes a *prima facie* case
- *Contributories*: Those shareholders who may be required to contribute to the company's assets on liquidation^{[2][3]}
- The *Secretary of State* (or equivalent)
- The *Official Receiver*

7.1.1 Grounds

The grounds upon which one can apply for a compulsory liquidation also vary between jurisdictions, but the normal grounds to enable an application to the court for an order to compulsorily wind-up the company are:

- The company has so resolved
- The company was incorporated as a *corporation*, and has not been issued with a trading certificate (or equivalent) within 12 months of registration
- It is an “old public company” (i.e. one that has not re-registered as a public company or become a private company under more recent companies legislation requiring this)
- It has not commenced business within the statutorily prescribed time (normally one year) of its incorporation, or has not carried on business for a statutorily prescribed amount of time
- The number of members has fallen below the minimum prescribed by statute
- The company is unable to pay its debts as they fall due
- It is just and equitable to wind up the company^[4]

In practice, the vast majority of compulsory winding-up applications are made under one of the last two grounds.^[5]

An order will not generally be made if the purpose of the application is to enforce payment of a debt which is bona fide disputed.^[6]

A “just and equitable” winding-up enables the grounds to subject the strict legal rights of the shareholders to equitable considerations. It can take account of personal relationships of mutual trust and confidence in small parties, particularly, for example, where there is a breach of an understanding that all of the members may participate in the business,^[7] or of an implied obligation to participate in management.^[8]

An order might be made where the majority shareholders deprive the minority of their right to appoint and remove their own director.^[9]

7.1.2 The order

Once liquidation commences (which depends upon applicable law, but will generally be when the petition was originally presented, and not when the court makes the order),^[10] dispositions of the company's property are generally void,^[11] and litigation involving the company is generally restrained.^[12]

Upon hearing the application, the court may either dismiss the petition, or make the order for winding-up. The court may dismiss the application if the petitioner unreasonably refrains from an alternative course of action.^[13]

The court may appoint an official receiver, and one or more liquidators, and has general powers to enable rights and liabilities of claimants and contributories to be settled. Separate meetings of creditors and contributories may decide to nominate a person for the appointment of liquidator and possibly of supervisory liquidation committee.

7.2 Voluntary liquidation

Voluntary liquidation occurs when the members of a company resolve to voluntarily wind up its affairs and dissolve. Voluntary liquidation begins when the company passes the resolution, and the company will generally cease to carry on business at that time (if it has not done so already).^[14]

A creditors' voluntary liquidation (CVL) is a process designed to allow an insolvent company to close voluntarily. The decision to liquidate is made by a board resolution, but instigated by the director(s). If a limited company's liabilities outweigh its assets, or the company cannot pay its bills when they fall due, the company becomes insolvent.^[15]

If the company is solvent, and the members have made a statutory declaration of solvency, the liquidation will proceed as a members' voluntary winding-up. In that case the general meeting will appoint the liquidator(s). If not, the liquidation will proceed as a creditors' voluntary winding-up, and a meeting of creditors will be called, to which the directors must report on the company's affairs. Where a voluntary liquidation proceeds as a creditors' voluntary liquidation, a liquidation committee may be appointed.^[16]

Where a voluntary winding-up of a company has begun, a compulsory liquidation order is still possible, but the petitioning contributory would need to satisfy the court that a voluntary liquidation would prejudice the contributors.

In addition, the term "liquidation" is sometimes used when a company wants to divest itself of some of its assets. This is used, for instance, when a retail establishment wants to close stores. They will sell to a company that specializes in store liquidation instead of attempting to run a store closure sale themselves.

7.3 Misconduct

Main articles: [Fraudulent trading](#), [Undervalue transaction](#), [Unfair preference](#) and [Wrongful trading](#)

The liquidator will normally have a duty to ascertain whether any misconduct has been conducted by those in control of the company which has caused prejudice to the general body of creditors. In some legal systems, in appropriate cases, the liquidator may be able to bring an action against errant directors or shadow directors for either wrongful trading or fraudulent trading.

The liquidator may also have to determine whether any payments made by the company or transactions entered into may be voidable as a transaction at an undervalue or an unfair preference.

7.4 Priority of claims

See also: [Secured creditor](#), [Preferential creditor](#) and [Unsecured creditor](#)

The main purpose of a liquidation where the company is insolvent is to collect its assets, determine the outstanding claims against the company, and satisfy those claims in the manner and order prescribed by law.

The liquidator must determine the company's title to property in its possession. Property which is in the possession of the company, but which was supplied under a valid retention of title clause will generally have to be returned to the supplier. Property which is held by the company on trust for third parties will not form part of the company's assets available to pay creditors.^[17]

Before the claims are met, secured creditors are entitled to enforce their claims against the assets of the company to the extent that they are subject to a valid security interest. In most legal systems, only fixed security takes precedence over all claims; security by way of floating charge may be postponed to the preferential creditors.

Claimants with non-monetary claims against the company may be able to enforce their rights against the company. For

example, a party who had a valid contract for the purchase of land against the company may be able to obtain an order for **specific performance**, and compel the liquidator to transfer title to the land to them, upon tender of the purchase price.^[18]

After the removal of all assets which are subject to retention of title arrangements, fixed security, or are otherwise subject to proprietary claims of others, the liquidator will pay the claims against the company's assets. Generally, the priority of claims on the company's assets will be determined in the following order:

1. Liquidators costs
2. Creditors with fixed charge over assets
3. Costs incurred by an administrator
4. Amounts owing to employees for wages/superannuation
5. Payments owing in respect of workers's injuries
6. Amounts owing to employees for leave
7. Retrenchment payments owing to employees
8. Creditors with floating charge over assets
9. Creditors without security over assets
10. Shareholders (**Liquidating distribution**)

Unclaimed assets will usually vest in the state as *bona vacantia*.

7.5 Dissolution

See also: **Dissolution (law)**

Having wound-up the company's affairs, the liquidator must call a final meeting of the members (if it is a members' voluntary winding-up), creditors (if it is a compulsory winding-up) or both (if it is a creditors' voluntary winding-up). The liquidator is then usually required to send final accounts to the Registrar and to notify the court. The company is then dissolved.

However, in common jurisdictions, the court has a discretion for a period of time after dissolution to declare the dissolution void to enable the completion of any unfinished business.^[19]

7.6 Striking off the Register

In some jurisdictions, the company may elect to simply be struck off the Register as a cheaper alternative to a formal winding-up and dissolution. In such cases an application is made to the Registrar, who may strike off the company if there is reasonable cause to believe that the company is not carrying on business or has been wound-up and, after enquiry, no case is shown why the company should not be struck off.^{[20][21]}

However, in such cases the company may be restored to the Register if it is just and equitable so to do (for example, if the rights of any creditors or members have been prejudiced).^[22]

In the event the company does not file an annual return or annual accounts, and the company's file remains inactive, in due course, the Registrar at Companies House will strike the company off the register.

7.7 Provisional liquidation

Main article: **Provisional liquidation**

Under the corporate insolvency laws of a number of common law jurisdictions, where a company has been engaged in misconduct or where the assets of the company are thought to be in jeopardy, it is sometimes possible to put a company into **provisional liquidation**, whereby a liquidator is appointed on an interim basis to safeguard the position of the company pending the hearing of the full winding-up petition.^[23] The duty of the provisional liquidator is to safeguard the assets of the company and maintain the status quo pending the hearing of the petition; the provisional liquidator does not assess claims against the company or try to distribute the company's assets to creditors.^[24]

7.8 Phoenix companies

In the UK, many companies in debt decide it's more beneficial to start again by creating a new company, often referred to as a *phoenix company*. In business terms this will mean liquidating a company as the only option and then resuming under a different name with the same customers, clients and suppliers. In some circumstances it may appear ideal for the directors, however if they trade under a name which is the same or substantially the same as the company in liquidation without approval from the Court they will be committing an offence under S216 of the Insolvency Act 1986 (and equivalent legislation in UK regions).^[25] Persons participating in

the management of the 'phoenix' company may also be held personally liable for the debts of the company under s217 of the Insolvency Act unless the Court approval has been granted.^[26]

7.9 See also

- Bankruptcy
- Chapter 7, Title 11, United States Code^[27]
- Debtor-in-possession financing
- Liquidating dividend
- Pre-pack administration

7.10 References

- [1] 19 CFR §159.1
- [2] “Insolvency Act 1986: Section 74”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [3] “Insolvency Act 1986: Section 75”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [4] “Insolvency Act 1986: Section 122”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [5] Jefferson, Mark. “What is a Winding-Up Order”. *Business Recovery*. Retrieved 16 December 2013.
- [6] See *Stonegate Securities Ltd v Gregory* [1980] Ch 576, per Buckley L.J. at 579
- [7] *Ebrahimi v Westbourne Galleries* [1972] 2 AER 492
- [8] *Tay Bok Choon v Tahansan Sdn Bhd* [1987] BCLC 472
- [9] *Re A & BC Chewing Gum Ltd* [1975] 1 WLR 579
- [10] “Insolvency Act 1986: Section 129”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [11] “Insolvency Act 1986: Section 127”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [12] “Insolvency Act 1986: Section 130”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [13] *Re A Company (No 001573 of 1983)* [1983] Com LR 202
- [14] “Liquidate your limited company”. *Gov.uk*. Crown. Retrieved 30 July 2014.
- [15] Smith, Mike. “What is a Creditors’ Voluntary Liquidation (CVL) and How Could this Type of Voluntary Liquidation Help Us?”. Retrieved 30 July 2014.
- [16] “Liquidation”. *Australian Securities & Investments Commission*. Retrieved 30 July 2014.
- [17] See for example, *Barclays Bank v Quistclose* [1970] AC 56
- [18] *Re Coregrange Ltd* [1984] BCLC 453
- [19] “Companies Act 1985: Section 651”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [20] “Companies Act 1985: Section 652”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [21] “Companies Act 1985: Section 653”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [22] *Re Priceland Limited* [1997] 1 BCLC 467
- [23] “Provisional liquidation: a quick guide”. *Practical Law*. Retrieved 30 July 2015.
- [24] “Provisional Liquidation”. *Worrells*. 25 September 2013. Retrieved 30 July 2015.
- [25] “Insolvency Act 1986: Section 216”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [26] “Insolvency Act 1986: Section 217”. *legislation.gov.uk*. Crown. Retrieved 30 July 2014.
- [27] Steven N. Taieb (2014), *Filing for bankruptcy*, retrieved 18 April 2014

Chapter 8

Receivership

In law, **receivership** is the situation in which an institution or enterprise is being held by a **receiver**, a person “placed in the custodial responsibility for the **property** of others, including tangible and intangible **assets** and rights”, especially in cases where a company cannot meet its financial obligations or enters **bankruptcy**.^[1] The receivership remedy is an equitable remedy that emerged in the English **Chancery courts**, where receivers were appointed to protect real property.^[2] Receiverships are also a remedy of last resort in litigation involving the conduct of executive agencies that fail to comply with constitutional or statutory obligations to populations that rely on those agencies for their basic **human rights**.^[2] There are several types of receiver appointments:^[1]

1. Appointed by a government regulator
2. Privately appointed receiver
3. Court-appointed receiver^[1]

The receiver’s powers “flow from the document(s) underlying his appointment”—i.e., a **statute**, financing agreement, or **court order**.

8.1 Duties of a receiver

- The receiver may run the company in order to maximize the value of the company’s assets, sell the company as a whole, or sell part of the company and close unprofitable divisions.
- Secure the assets of the company and/or entity.
- Realize the assets of the company and/or entity.
- Manage the affairs of the company in order to resolve debts owing.

8.2 United States process

Several regulatory entities have been granted power by the **Congress** to place banking and financial institutions into receivership like the **Office of the Comptroller of the Currency** for failing nationally chartered commercial banks; the **Office of Thrift Supervision** for failing savings and loan associations (thrift institutions); and the **Federal Housing Finance Agency (FHFA)** for **government-sponsored enterprises (GSEs)** such as **Fannie Mae**, **Freddie Mac**, and the **11 Federal Home Loan Banks**. Most individual states also have granted receivership authority to their own bank regulatory agencies and insurance regulators. State Insurance Departments are accredited by the National Association of Insurance Commissioners (NAIC) which requires, “State law should set forth a receivership scheme for the administration, by the insurance commissioner, of insurance companies found to be insolvent as set forth in the NAIC’s Insurer Receivership Model Act.”^[3]

The California Receivers Forum is a non-profit organization formed by interested receivers, attorneys, accountants and property managers, with support from the Los Angeles Superior Court, to address the needs and concerns of receivers, to facilitate communication between the receivership community and the courts, and to assist in raising the level of professionalism of receivers throughout the state. The California Receivers Forum has five local affiliates: Bay Area, Central California, LA/Orange County, Sacramento Valley and San Diego.

Court-appointed receivers are “the most powerful and independent of the judicially appointed managers”.^[4] Unlike **special masters** and monitors, “the receiver completely displaces the defendants: the receiver makes large and small decisions, spends the organization’s funds, and controls hiring and firing determinations.”^[4] Examples of court-appointed receivers include:

- In the **District of Columbia**, the **D.C. Jail’s** medical care facility “was placed under court-ordered receivership in August 1995, after the District was held in

contempt for repeatedly failing to implement court orders...intended to ensure adequate medical services to jail inmates”.^[5] The receivership ended in September 2000.^[6]

- An insolvent fuel company is managed by a court-appointed receiver.^[7]
- A U.S. District Judge appointed a receiver for the multi-level marketing company Equinox International in August 1999.^[8] As of 2007, the receiver was authorized to distribute settlement funds from the now-defunct company to approved claimants.^[9]
- After placing the California state prison health care system into receivership in June 2005,^[4] a U.S. District Judge appointed a receiver for it in February 2006.^[10] California Prison Health Care Services (under control of the California Prison Health Care Receivership) attempts “to bring medical care in California prisons up to constitutional standards”.^[11]
- In February 2007, a judge in Florida appointed a receiver for companies owned by Lou Pearlman that defrauded investors.^[12] The receiver later said about the companies “I don't see much in the way of hard assets that are worth anything or are not already fully encumbered [with debt].”^[13]

8.3 United Kingdom process

Administrative receivership is a procedure in the United Kingdom^[14] whereby a creditor can enforce security against a company's assets in an effort to obtain repayment of the secured debt. It used to be the most popular method of enforcement by secured creditors, but recent legislative reform in many jurisdictions has reduced its significance considerably in certain countries.^[15]

Administrative receivership differs from simple receivership in that an administrative receiver is appointed over all of the assets and undertaking of the company. This means that an administrative receiver can normally only be appointed by the holder of a floating charge. Because of this unusual role, insolvency legislation usually grants wider powers to administrative receivers, but also controls the exercise of those powers to try to mitigate potential prejudice to unsecured creditors.

Characteristically an administrative receiver will be an accountant with considerable experience of insolvency matters.

8.3.1 History

The common law has long recognised the concept of a receiver. Following the development of the floating charge creditors were effectively able to take security over a company's entire business by means of a floating charge over the undertaking. Security documents generally contained very wide powers of appointment such that on default the creditor could take over the business immediately and without the input of any court. A receiver appointed to the entire business became known as a *receiver and manager*. The receiver and manager would typically have extensive powers over the business, including the power to sell it at a time and on terms that suited the appointing creditor.

The ability to appoint a receiver and manager was a very powerful remedy, but it came to be considered unsatisfactory that it was entirely a creature of the contract between the creditor and the borrower. There was no general ability on the part of the borrower or any other party to review the actions of the receiver (who would generally be acting on behalf of *the borrower* under the security document) or seek the supervision of the court. As a part of the general review of UK insolvency law that took place in the 1980s, beginning with the *Cork Report* and culminating in the *Insolvency Act 1986*, two major reforms were put forward. First, the receiver and manager was put on a statutory footing: a receiver appointed to all or substantially all of a company's property was now to be known as an *administrative receiver* and subject to some (albeit not too extensive) statutory responsibilities. Second, the “administration order” procedure was introduced, designed as an equivalent process to administrative receivership but one available to any company by order of the court, and not dependent upon a particular security arrangement.

The expectation of Parliament was that companies and creditors would utilise administration in preference to administrative receivership. Crucially, however, Parliament had conceded in the *Insolvency Act* that administrative receivership should have priority – that is, a secured creditor with a floating charge could defeat any attempt to commence an administration by appointing an administrative receiver. As a result, administration was not as popular as had been envisaged, and secured creditors habitually appointed administrative receivers to enforce security rights. More drastic action was taken in the *Enterprise Act 2002* – Parliament made changes to the administration regime in an effort to make it more attractive, but also barred the right to appoint administrative receivers in any security created after 15 September 2003 (subject to certain specific exceptions). Any attempt to do so takes effect as a power to appoint an administrator.

8.3.2 Present significance

Administrative receivership still forms part of modern insolvency practice. Companies that get into financial difficulty today may well have security packages that were created before 15 September 2003, a situation likely to remain common for some years. Enforcement is also a significant aspect of the situations where administrative receivership is still permitted – for example, the ability to take control of the entirety of the assets is important in structuring insolvency-remote special purpose companies that issue securities or operate infrastructure projects.

In common law jurisdictions outside of the United Kingdom, administrative receivership remains alive and well. A number of offshore jurisdictions market transaction structures to banks on the basis that they still retain the freedom to appoint administrative receivers in those jurisdictions.

Because of their unique role, insolvency legislation usually confers wide powers upon administrative receivers under applicable insolvency law (which will usually be concurrent with powers granted under the security document).^[16]

However, the corollary is that administrative receivers are usually required under applicable legislation to file reports in relation to the period of their receivership.^[17]

8.4 Ireland process

Similarly to the United Kingdom process, methods for receiver appointment in Ireland are:

- Creditor appointed receiver, on providing debenture document. This is the most common method.
- The High Court may appoint a receiver under the Conveyancing Act 1881 or the Supreme Court of Judicature Act (Ireland) 1877
- A receiver may be appointed under the Rules of the Superior Courts.^[18]

8.5 See also

- Administration
- Bankruptcy
- Bailout
- Conservatorship
- Debtor-in-possession financing

- Examinership
- Floating charge
- Liquidator (law)
- Official Receiver

8.6 References

- [1] Philip, Ken, and Kerin Kaminski. *Receivership: A Value-Adding Tool*. *Secured Lender*, January/February 2007, Vol. 63 Issue 1, pages 30-34,36.
- [2] Weingart, Liat. "Receiverships in the Prison Litigation Context". *Cardozo Public Law, Policy and Ethics Journal* (Fall 2010).
- [3] http://www.naic.org/documents/committees_f_FRSA_pamphlet.pdf.
- [4] Bradley, Catherine Megan. Old Remedies Are New Again: Deliberate Indifference and the Receivership in *Plata v. Schwarzenegger*. 62 N.Y.U. Ann. Surv. Am. L. 703 (2007).
- [5] Ekstrand, Laurie E. District of Columbia Receivership: Selected Issues Related to Medical Services at the D.C. Jail. United States General Accounting Office, 30 June 2000. Testimony GAO/T-GGD-00-173.
- [6] District of Columbia Jail: Medical Services Generally Met Requirements and Costs Decreased, but Oversight Is Incomplete. United States General Accounting Office, June 2004. Report GAO-04-750.
- [7] Archived 13 September 2008 at the Wayback Machine.
- [8] Geer, Carri. Court-appointed receiver to retain control of Equinox Corp. for now. *Las Vegas Review-Journal*, 18 August 1999.
- [9] Page of Robb Evans, Receiver of Equinox International Corp. Accessed 10 Nov 2007.
- [10] Moore, Solomon. Using Muscle to Improve Health Care for Prisoners. *New York Times*, 27 August 2007.
- [11] Welcome to California Prison Health Care Services. Accessed 16 August 2008.
- [12] Huntley, Helen. Regulators call Pearlman savings plan a fraud. *St. Petersburg Times*, 3 February 2007.
- [13] Lieberman, David. Missing music king loses his throne. *USA Today*, 10 April 2007.
- [14] See sections 29(2) and 251 of the Insolvency Act 1986 and Article 5(1) of the Insolvency (Northern Ireland) Order 1989 for the definition of administrative receiver under the laws, respectively, of England and Wales, Scotland and Northern Ireland

- [15] Particularly in the United Kingdom subsequent to the passing of the Enterprise Act 2002
- [16] For example, see Schedule 1 to the Insolvency Act 1986 in the United Kingdom
- [17] For example, see section 48 of the Insolvency Act 1986, requiring reports to be filed at Companies House within three months of the end of the receivership
- [18] “The Court Service of Ireland, Rules and Fees, Order: 50,6.(1)”. Courts.ie. 2003-05-19. Retrieved 2013-08-16.

8.7 External links

- Resolutions Handbook of the Federal Deposit Insurance Corporation
- California Receivers Forum

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