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BOSNIA-HERZEGOVINA

PROGRAM FOR 8 TRAINING SESSIONS FOR TRUSTEES

USAID FOSTERING AN INVESTMENT AND LENDER-FRIENDLY
ENVIRONMENT (FILE)

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**USAID FOSTERING AN INVESTMENT AND LENDER-FRIENDLY
ENVIRONMENT (FILE)**

**PROGRAM FOR 8 TRAINING SESSIONS
FOR TRUSTEES**

I. Introduction to the Program for 8 Training Sessions for trustees

Section VI(A) of Task Order Number 821 and the Workplan covering the same period, provides as follows:

“Prepare a program for the complete legal and regulatory framework for the professions of trustees and appraisers, for their educational requirements, exams and certification, and develop at least 8 training sessions specific to each profession (in addition to other training in this SOW in which the appraisers and trustees many participate). The training for the appraisers and trustees shall cover all relevant areas, including collateral and bankruptcy and insolvency.”

II. Background

A main objective of USAID’s FILE Project is to contribute to the improvement of the lending environment in both entities of Bosnia and Herzegovina by strengthening the efficiency of the judiciary system, with special emphasis on the bankruptcy and collateral law regimes. FILE’s activities in this area will be an ongoing and multi-faceted.

A critical step in the bankruptcy area is the training of competent, knowledgeable and effective bankruptcy trustees. Bankruptcy trustees need a strong understanding of the bankruptcy law, financial concepts, and legal principals, as well a strong grasp of the various issues they will deal with on a day-to-day basis. To address these needs, FILE has prepared eight (8) training sessions specifically for prospective trustees. These programs cover: (1) basic corporate finance, (2) bankruptcy concepts, and (3) the intricacies of the new bankruptcy laws.

Additionally, the RS Ministry of Justice has adopted program for certification of bankruptcy trustees (issued in Official Gazette RS Number 6/03) that requires that all candidates pass an examination on bankruptcy legislation, civil and commercial law, and the basics of accounting and finance. In regard to this, FILE has reconsidered and revised its 8 proposed training sessions.

III. Principal and Specific Objectives of Training Sessions

By offering training through a centralized, institutionalized system, an overall common approach will be attained. For that reason, FILE plans to develop an Introductory Training Session that is appropriate for all interested participants in the system, and at the same time to create tailored training programs referring to particular subjects related to bankruptcy and liquidation laws appropriate to particular categories of participants.

Such approach assures that each participant meets the training objectives identified through prior task analysis. There are several advantages associated with this approach. First, trainings are interactive, permitting flexibility and adaptability in course content and ensuring that participants become involved in the training process. Second, it utilizes modern training

techniques as practical case studies, relevant group discussion, and tailored exercises (related to the participants' day-to-day work). These training techniques make lessons more understandable and more interesting than classical teaching. Third, the size of the group and atmosphere are fundamental to the open exchange of ideas between professionals. Small groups (15-20 participants) maintain a level of comfort for those professionals not accustomed to interactive learning. In addition, it permits flexibility in course content and allows participants to network and brainstorm with other professionals. It is recommended to have rooms arranged for roundtable discussion rather than typical school classrooms. This atmosphere promotes communication and active involvement of all participants.

Program for Training of Trustees 8 sessions for professionals

Course Description

This course provides both the necessary knowledge to prepare oneself for the Trustee Certification program and the necessary tools and practices that will help the trustee in his day-to-day work. The course will cover 8 training sessions for professionals developing their career as trustees.

Target Audience

This course is designed for new and current transitional trustees in order to assist them by providing knowledge on the existing legislation related to bankruptcy proceedings and on providing practical advice on how to manage an entity in bankruptcy, focusing on the different techniques and approaches to liquidation and reorganization.

Prerequisite

Degree in Management, Finance and accounting, or substantive work experience in these fields.

Terminal Learning Objectives

At the completion of this course, participants will be able to:

- 1. Discuss bankruptcy issues and the functioning of the Court;***
- 2. Deal with Civil Law Issues and Legal Remedies;***
- 3. Understand Basic Corporate Finance (“Analyzing Financial Statements - simplified”);***
- 4. Implement in practice the Role and Responsibility of the Trustee in the Bankruptcy Process - Part I***
- 5. Implement in practice the Role and Responsibility of the Trustee Under the Bankruptcy Law - Part II;***
- 6. Draw a Bankruptcy Plan;***
- 7. Understand Creditors’ Rights and the Process of their Determination;***
- 8. Enrich their experience through participating in developing a Case Study***

Training Methodology

Participative presentation with guided discussion, exercises and partial training material development using the knowledge and skills presented in the course.

Course Date and Time

To be determined.

Maximum Participants

15 – 20 participants.

Course Materials

The course consists of the following components:

- ◆ Participant Guide;***
- ◆ How to draw a Bankruptcy plan; and***
- ◆ Course Development Templates/Case Studies.***

III. Short annotation to the training sessions

The following reflects the eight session training course designed specifically for trustees.

Training session 1: Introductory session to bankruptcy

Session one is designed to provide the trustee trainee with a broad introductory overview of the bankruptcy process. In this regard, trainees will gain a strong understanding of the objectives and benefits of bankruptcy process, as well as the particulars of bankruptcy procedure, roles of participants, and end results. Specific areas to be cover by Session One include:

- The objectives and benefits of bankruptcy
- Explanation of why the old bankruptcy law was revised
- Overview of the new FBiH Bankruptcy Law
- Identification of participants and brief overview of roles and responsibilities
- Need for protection of debtor and creditor interests
- Type of relief available (Reorganization or Liquidation)
- Court organization and administration

In order to gain a better understanding of the trainees' level of understanding of the bankruptcy process, the trainer will engage participants in active discussion of the topics covered. In this regard, subsequent sessions will be revised to incorporate areas in which the trainees indicated a need for additional training and support.

Training session 2: Civil Law Issues and Legal Remedies

The trustee will need a strong familiarity with the legal process and laws that affect his activities as a trustee. In this regard, the emphasis falls on other commercial laws. The trustee must also have an understanding of how to deal with the bankruptcy judge and, if necessary, present a clear and concise argument regarding the issue. Many of the decisions and rulings of the bankruptcy judge are subject to appeal. In this regard, the trustee will need an understanding of the appeal process, and which appeals he should seek to challenge. Therefore Session Two is designed to cover the following:

- Basics on Law of Civil Procedure and Law on Enforcement
- Basics on Civil and Commercial Law
- Law on Notaries
- Property Law
- Pledge Registry Law
- Law on Obligations
- Land Registry Law

Training session 3: Basic Corporate Finance (“Analyzing Financial Statements - simplified”)

The role of the trustee necessarily includes certain financial responsibilities. Session Three seeks to reinforce the basic accounting and finance principles that a trustee will need in order to provide necessary information to creditors and the bankruptcy judge, and to make well-reasoned decisions with respect to the bankrupt estate. As such, Session Three covers the following topics:

- Basic accounting and auditing standards
- Organization of the entity's accounting records
- Preparation and Interpretation of a balance sheet
- Understanding the Income Statement (Profit and Loss)
- Character and values of assets and liabilities in the Balance Sheet
- Describing various entries in the income statement
- Budget preparation
- Inventory and Statement of Assets
- Alternative payment instruments
- Understanding of debt swaps
- Calculating indicative financial ratios from the balance sheet and income statement, which provide indicative measures of financial standing and prospects
- Interpreting the performance measures identified

Session Three is designed to provide trustees with the financial skills required to serve as decision-makers in bankruptcy proceedings. The trustee should be able to interpret the financial statements of an enterprise in a bankruptcy or reorganization, and assist in making final decision related to bankruptcy proceeding (potential reorganization or liquidation of the company).

Training session 4: The Role and Responsibility of the Trustee in the Bankruptcy Process — Part I

It is critical that trustee has a thorough understanding of his role and responsibilities in each step of the bankruptcy process. In this regard, he must have a full understanding of what is expected of him under both the old and new law, how to deal with the bankruptcy judge and creditors, prepare reports, and take any and all necessary financial and legal action. Sessions Four and Five contain a step by step analysis of the responsibilities of the trustee, including practical guidance on how to solve common problems. Together, these two training sessions give guidance from the initiation of the process through finalization. It is believed that this comprehensive approach to the subject matter will give the trainee a deeper understanding of his role in the process, his obligations to the bankrupt entity and other participants, as well as a grasp of the practical day-to-day issues that he will confront. Part one of Session 4 covers the following topics:

- Bankruptcy Jurisdiction and the Power of the Court
- Debtor Eligibility
- Different Forms of Bankruptcy
- Procedural Considerations
- Commencement of the Bankruptcy Case
- Appointment of the Trustee
- Dealing with the Bankruptcy Judge
- Dealing with Creditors
- Legal Consequences of Declaring Bankruptcy
- Automatic Stay and Relief from Stay
- Property of the Estate
- Preparation of Bankruptcy Plan
- Administration and Realization of the Assets of the Bankruptcy Estate

Training session 5: The Role and Responsibility of the Trustee Under the Bankruptcy Law — Part II

Using the training of session 4 as a basis, session 5 will continue where session 4 left off, providing a continuing analysis of the responsibilities of the trustee, including practical guidance on how to solve common problems. Part 5 covers the following topics:

- Trustee avoidance powers under contractual obligations occurred before filing of bankruptcy proceedings
 - general principals
 - unperfected interests
 - exemption, redemption and reaffirmation
- Avoidance of preferences, set- off and fraudulent transfers
- Trustees powers to deal with estate property
- Executory contracts and unexpired leases
- Claims against the estate
- Settlement of the creditors/Priority of claims
- Termination of the bankruptcy proceeding
- Reorganization (Preparation/ Acceptance and approval of the plan)
- International bankruptcy proceeding

At the completion of Sessions 4 and 5, the trustee trainee will have a solid understanding of his responsibilities in the process, as well as the responsibilities of other participants.

Training session 6: Bankruptcy Plan

Session 6 will address the requirements of the Bankruptcy Plan. A mixture of methods will be employed during the presentation of Session 6. First, it will comprise a presentation of main objectives of the Bankruptcy Plan. Second, selected participants (divided into different groups, for example - trustees) will be asked to prepare a report about current problems in the implementation of bankruptcy plans and future prospects for working in compliance with the new law. Third, case study presentation by each group and the group's findings about good and bad bankruptcy plans.

- Preparatory (declarative) part
- Implementation (contents) part
- Attachments to the bankruptcy plan
- Acceptance and approval of the plan
- Legal effect of the approved plan and the supervision over the implementation of the plan
- Disclosure
- Voting on Plan
- Modification of Plan
- Consummation of Plan

Training session 7: Creditors Rights and the Process of their Determination

Basic knowledge on how the courts are functioning and how bankruptcy is administrated shall be provided in the first part of this training session. Further the participants will be focused on the fair and equitable treatment of the creditors in a bankruptcy process. In this regard, in addition to the discussion on creditors right contained in other sessions, Session 7 contains a comprehensive analysis of how the trustee should deal with creditors, and what

rights creditors have. In addition, Session 7 covers the specific laws which affect creditor's rights. As such, Session 7 covers the following:

- Secured debt and priorities
- Registration of interest (land and movables)
- Collateral and after-acquired property
- Liens and priority
- Fraudulent transfers
- Unsecured claims
- Settlement of Creditors

Training session 8: Case Study

The final training session will be based on a case study of a successful bankruptcy. It will require trainees to apply the knowledge they have obtain during the seven previous sessions to resolve a failing company. In this regard, they will make the types of financial and legal decisions that will be required when they are appointed trustee.