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BOSNIA-HERZEGOVINA

**BiH BANKRUPTCY
AND LIQUIDATION LAWS:**

**Towards a Bankruptcy “Trainers” Handbook
(Outline)**

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

BiH NEW BANKRUPTCY AND LIQUIDATION LAWS

Bankruptcy Implementation Program

TOWARDS A “BANKRUPTCY TRAINERS HANDBOOK” – AN OUTLINE

INTRODUCTION

A main objective of FILE is to contribute to the improvement of the lending environment in BiH’s two entities by strengthening the efficiency of the judicial system, with special emphasis on the bankruptcy and collateral law regimes.

The new Bankruptcy and Liquidation laws in Bosnia and Herzegovina (BiH) will not be successfully implemented unless the key players are able to properly perform their roles. A critical step is developing and maintaining a cadre of competent, knowledgeable and effective bankruptcy judges, trustees, appraisers, lawyers, creditor representatives, management personnel, worker representatives and others with the skills and knowledge necessary to confront the various issues which arise with regularity in the bankruptcy process.

Undoubtedly, the work of the judges, trustees and other professionals involved in the BiH bankruptcy system now is critical to FILE’s goal of successfully implementing these laws. However, others who will also need to be familiar with the rights and responsibilities of the participants in the bankruptcy system will succeed to the roles these professionals fill today. Anticipating the need to prepare these future participants in the system, FILE intends to educate suitable “trainers,” who, once educated and motivated can help bring necessary knowledge of bankruptcy law and procedure to a wider and continually-changing audience.

The outline that follows presents a basic structure for a “ Bankruptcy Trainers Handbook,” which addresses this need.

STRUCTURING GUIDELINES FOR BANKRUPTCY TRAINERS

This outline sets forth the subjects that will be covered in the “Bankruptcy Trainers Handbook” and the structure which the handbook should follow.

In order to assist on the development of skilled professional cadre that will be able to support a sophisticated bankruptcy practice in BiH and to educate others about bankruptcy, this “Bankruptcy Trainers Handbook” is offered for trainers to use before and during training (1) to organize the content of their training module, (2) to select the particular subject or subjects and/or adjust the content of the training to be offered to their audience’s level of sophistication, (3) to serve as a reference on the chosen materials, (4) to improve their lecturing and pedagogical techniques, and (5) to suggest the use of audio-visual tools that could help them make their lessons more clear.

This book is meant to be a practical manual for wide variety of lecturers (judges, trustees, attorneys, trade union representatives and all others). It should increase the sophistication and technical competence of bankruptcy trainers, providing them easy to understand instructions how they should approach different training audiences. Guidance is given on the nature of the information to be presented to the identified trainees, so that all the different players in the bankruptcy process can be made aware of their responsibilities in the bankruptcy system. For example, a trainer for trustees should have as his perspective the fact that the “trustee” is the professional whose job it is to take actual control of the assets of the bankruptcy estate, to preserve its value, to bring about its liquidation or transformation into other assets or ownership, and to cause an appropriate distribution to the creditors (and others) rightfully entitled to such distributions.

The Bankruptcy Team of FILE has been working on preparation of different resource materials for the various professionals in the bankruptcy process (e.g. Trustees Manual, Handbook for Judges and Guidebook for Appraisers). The “Handbook for Trainers” supplements these materials, but need not supplant them. Accordingly, detailed descriptions of specific tasks with other details concerning the specifics of the bankruptcy process are not needed, but references to places where explanations can be found are appropriate.

When completed, this “Bankruptcy Trainer’s Handbook” will be reviewed with FILE’s local partners and revised to meet their needs.

HANDBOOK FOR BANKRUPTCY TRAINERS WORKING IN BiH (Outline)

Preface – State purpose of the book, acknowledge contributors and USAID.

Introduction – Provide an overview of the Federation and R.S. bankruptcy and liquidation laws and fundamentals of bankruptcy procedure. Explain how to use the book.

FIRST PART
(Overview of the Bankruptcy Process and
Role of Key Players' in Bankruptcy Proceeding)

- I. Role of Bankruptcy in a Market Economy
- II. Nature of the Proceedings
- III. The Six “Institutions” of the Bankruptcy Proceeding
 - 1. Bankruptcy Judge
 - 2. Bankruptcy Trustee
 - 3. Interim Bankruptcy Trustee
 - 4. Creditors' Assembly
 - 5. The Interim Board of Creditors
 - 6. The Board of Creditors
- IV. Overview of the Judge's Role in Bankruptcy Proceedings
- V. Trustees Responsibilities and Rights
 - 1. Appointment
 - a. Interim trustee
 - b. Bankruptcy trustee
 - 2. Supervision
 - 3. Compensation
- VI. Creditors Rights
- VII. Bankruptcy Phases
 - 1. Preliminary Proceeding
 - 2. Opening the Proceeding
 - 3. Main Phase
 - 4. Reorganization
 - 5. Closing the Proceeding
- VIII. Required Hearings
 - 1. Reporting Hearing
 - 2. Investigation Hearing
 - 3. Creditors Assembly
- IX. Separate Settlement

- X. Relationship of Bankruptcy Laws to other Relevant Laws
- XI. International Bankruptcy Proceeding

SECOND PART
(Technical Skills for Bankruptcy Trainers)

I. Module One: Introduction to Training Delivery

- 1. Performance Based Training (difference between learning, training, education and development)
- 2. Instructional Systems Design Cycle (products, information and outcomes)
- 3. Adult Learning Principles (learning styles and attitudes; source of adult motivation)

II. Module Two: Training Preparation

- 1. Coordination Activities (coordination, administration and delivery responsibilities)
- 2. Training Preparation Skills (identification of training preparation tasks, training aids and facility)

III. Module Three: Training Delivery Skills

- 1. Communication Skills (communication techniques and listening skills)
- 2. Presentation Skills (training methods, types of training aids, questioning techniques)
- 3. Evaluation Techniques (purpose and evaluation tools)

THIRD PART
(Resource Materials)

This Part of the Bankruptcy Trainer's Handbook will contain the materials prepared by the Bankruptcy Team that are useful for the education of different professional audiences. Since these materials may be voluminous, they may be placed on a CDROM and/or website.

I. Power Point Presentations

- Overview of the Bankruptcy Proceeding
- Trade Unions and Bankruptcy: Maximizing Benefits and Minimizing Risks
- Finance and Accounting Basics for Bankruptcy Judges (First Part: Balance Sheet and Income Statement Analysis; Second Part: Cash Flow Analysis)
- Reviewing Appraisers Report
- Business Evaluation and Insolvency Analysis

- Other PPP (on going activity)

II. Training Modules

- Module One: Introduction to Bankruptcy Principles and Practices
- Module Two: Finance and Accounting in a Bankruptcy Context (Additional Material – re: Business Valuation)
- Module Three: Analysis Of The Statutory Scheme
- Module Four: Practical Problem Solving Workshop
- Module Five: Case Study Seminar – Unit One (Practical Example: Sunbeam-Oster)
- Module Six: Case Study Seminar – Unit Two (Practical Example: Buenos Aires Embotalladora)
- Module Seven: Trustee’s Workshop – Trustee’s Duties
- Module Eight: Judge’s Decision – Making Workshop
- Module Nine: Case Study Seminar – Unit Three (Practical Example: Marvel Entertainment)
- Module Ten: Pilot Case Presentation
- Module Eleven: Case Study Seminar – Unit Four (Practical Example: Kugelfischer)
- Module Twelve: Case Study Seminar – Unit Five (Practical Example: Prochnik)
- Module Thirteen: Case Study Seminar – Unit Six (Practical Example: Alphatec)
- Module Fourteen: Case Study Seminar – Unit Seven (Practical Example: Finova)
- Module Fifteen: Case Study Seminar – Unit Eight (Practical Example: Cumberland)
- Module Sixteen: Plan Preparation Workshop
- Module Seventeen: Management And Marketing Of Distressed Enterprises

III. Handouts

- Manual for Bankruptcy Trustees
- Timeline of the Bankruptcy Procedure
- Judge's Benchbook
- Guidebook for Appraisers
- Financial Workbook and Skill Builder for Bankruptcy Judges

IV. Checklists

- Company Manager's Bankruptcy Checklist
- Creditor's Bankruptcy Checklist

V. Other

- Additional Supplemental Charts (Bankruptcy Overview; Preliminary Phase; Opening of Bankruptcy Proceeding; Main Phase; Reorganization Plan; Liquidation Proceeding)
- Court Forms
- Bankruptcy Briefing Program (Talking Points)
- Examination Syllabus (Questions and Answers for Trustee Certification)
- Program of 8 Training Sessions for Trustees
- Program of 8 Training Sessions for Appraisers
- Trustee's Integrated Reporting System (TIRES) - worksheets