



Bankruptcy Law – “Materials for Pilot Case Participants Training”

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## OUTLINE

### **“Materials for Pilot Case Participants”**

This outline has been prepared by USAID’s Fostering an Investment and Lender-Friendly Environment, or FILE, Project, pursuant to its Bankruptcy Law workplan for the six-month period ending December 31, 2004 (the “Workplan”).

**The attached *MATERIALS FOR PILOT CASE PARTICIPANTS TRAINING*** were initially prepared as separate deliverables throughout the year 2004. After their delivery to USAID during 2004, these materials were circulated to thirty-five bankruptcy trustees and general managers for their comments, and some materials like the Judge’s Bankruptcy Benchbook to five leading bankruptcy judges both from RS and FBiH. During July through October, FILE staff followed up with letters and telephone calls to these groups to solicit their comments and suggestions for revisions of these materials.

Some local trustees provided extensive written comments. Participating judges were very active during all vetting sessions on the Bankruptcy Judge’s Benchbook. All comments on the different materials by the different vetting groups were useful in analyzing and improving the thoroughness, focus, and accessibility of these materials.

FILE’s professionals have revised the Judges’ Bankruptcy Benchbook, Trustees’ Manual, Appraisers’ Guide Book and Creditors’ and Managers’ Checklists in light of the thoughtful comments of these local professionals. FILE submitted revised versions of these materials to USAID. FILE expects to receive additional comments and suggestions from a larger group of interested local stakeholders, notably from participants in FILE’s training events and seminars scheduled to take place in 2005. The bankruptcy judges’ vetting group has shown great interest in the Trustee’s Manual and will provide additional comments in the first half of 2005. FILE views these materials as living documents that will be continually revised and updated as we receive additional input, comments, etc. and as the law, procedures, and practices change, and new issues and solutions emerge.

In addition to these core resource materials for pilot case participants’ training, FILE is submitting all materials from training sessions for trustees and judges that took place in 2004, which consist of: PowerPoint presentations, charts, case studies, etc.

Some training materials have been developed in outline form for USAID’s FILE Project with the special assistance of Chief Judge Gregory F. Kishel of the U.S. Bankruptcy Court for the District of Minnesota and Charles Case, Chief Judge of the Arizona District Bankruptcy Court. Among the materials the judges contributed to are the Creditors’ and Managers’ Checklists and valuable contributions to the Trustees’ Manual, which is considered the key resource material for the pilot case participants’ training.

The main purpose of this Deliverable is to integrate and focus all the training materials relating to FILE’s current activities (conduct of bankruptcy cases, training and education of local

stakeholders, developing resource materials for counterparts). These materials can thus be more easily used as targeted training materials for participants in pilot cases.

These materials will contribute to a better understanding of economic and legal issues arising during the implementation of the new Law on Bankruptcy and Liquidation Proceedings in the following ways:

- Providing basic information on the new Bankruptcy Law;
- Giving instructions, advice,/ recommendations;
- Disseminating Lessons Learned;
- Involving a selected group of Pilot Case participants in a “Train the Trainers Program”;
- Sharing experiences and impressions;
- Permanent development of training modules;
- Other training, education, and outreach to stakeholders.

FILE’s goal is to roll out the lessons learned in the pilot cases to a broader audience of persons with the technical capacity to participate meaningfully in the bankruptcy process and to create mechanisms that provide continuous assistance in all phases of the bankruptcy proceeding. This process is not uni-directional and includes constant update of training materials based on feedback from local stakeholders and lessons learned by FILE during the Unis Tadv d.oo, Konjic and Energoinvest-Livnica, Sarajevo pilot cases. Subject to USAID concurrence, FILE plans to create restructuring modeling software that will provide trustees, judges, consultants, and other stakeholders with a tool that structures the analysis of troubled enterprises and helps to determine whether liquidation or restructuring is warranted and models the various financial, operational and legal options for restructuring. This tool will be based on the USAID Corporate Restructuring Model, first developed by EMG on the USAID Ukraine Financial Restructuring Project, and subsequently adapted by other donors and contractors for use in China, Russia, and West Bank/Gaza. We expect that this software, which will serve as a focus both in training and in the analysis of potential cases, will result in faster, more reliable, and more efficient bankruptcy proceedings, generating increased capital flows to potentially viable businesses through efficient reorganization or liquidation of hopelessly failed businesses. FILE proposes to develop this software model specifically tailored to our Bankruptcy Law and the legal and operational options it makes available, using the software as a focus both in training stakeholders and in the analysis of potential pilot and new cases.

The materials in this package are divided into three groups based on the category of pilot case participants:

<b>BANKRUPTCY JUDGE</b>	<b>BANKRUPTCY TRUSTEE</b>	<b>DEBTOR/CREDITORS</b>
1. Bankruptcy Judges’ Benchbook	2. Trustees Manual	3. Action Plan/Time Line on Bankruptcy Procedure
3. Action Plan/Time Line on Bankruptcy Procedure	3. Action Plan/Time Line on Bankruptcy Procedure	4. Table of Appealable Issues
4. Table of Appealable Issues	4. Table of Appealable Issues	5. Trustees’ Responsibilities to Creditors (Creditors’ Rights)
6. Bankruptcy Charts (Court Activities)	5. Trustees’ Responsibilities to Creditors (Trustee’s Duties)	6. Bankruptcy Charts (Court and Trustee Activities)
16. Bankruptcy Law (FBiH and RS)	6. Bankruptcy Charts (Trustees’ Activities)	7. The Trustee as Spokesman – the Media and Public

BANKRUPTCY JUDGE	BANKRUPTCY TRUSTEE	DEBTOR/CREDITORS
	7. The Trustee as Spokesperson – the Media and Public Relations (instructions) 9. Appraisals Methods (Book Value, Liquidation Value, Going-Concern Value) 10. Bankruptcy Costs Projection 11. Liquidating Balance Sheet 12. Turnaround Problem Definition Checklist 13. Turnaround Short-Term Cash Generation Actions 16 Bankruptcy Law (FBiH and RS)	Relations (instructions) 8. Power Point Presentations on Bankruptcy (for Trade Unions; Directorate/ Agencies for Privatization; Tax Administration; government officials, banks; other creditors and media) 14. Checklist for Managers 15. Checklist for Creditors 16. Bankruptcy Law (FBiH and RS)

*The content of these packages is subject to revision and update. Numbering of materiales is according Appendix index.*