

Registration of Claims in the Insolvency Proceedings

(please see „Instructions for filing insolvency claims”)

<u>Debtor:</u>
Court Ref. No.:

<u>Creditor</u>	<u>Representative of Creditor</u>
Mr / Mrs	Mr / Mrs
Title	Title
First Name	First Name
Surname	Surname
Firm / Company	Law Office / Firm
Legal form of the firm and its representative	Legal form of the firm and its representative
Street	Street
Postal Code	Postal Code
Place	Place
Country	Country
Phone	Phone
Fax	Fax
Mobile	Mobile

Instructions for filing insolvency claims

The creditors have to file their Insolvency claims with the Insolvency Administrator – not with the Local Court (Insolvency Court) in written form. All documents must be submitted in duplicate.

When filing claims with the Insolvency Administrator the following needs to be observed:

1. The legal basis for the claims (e.g. purchase, loan, service or work contract, bill of exchange, damages) must be expressly identified.
2. In respect of insolvency proceedings over the estate of a natural person creditors filing claims that – according to the opinion of the creditor- are arising from a tortious act committed by the debtor are obliged to submit the accordant matters of fact to the Insolvency Administrator in written form. Please note:
Claims arising from a tortious act committed by the debtor are only excluded from the waiver of remaining debts (“Restschuldbefreiung”; needs to be requested by the debtor) if the subjective claim was filed by the creditor stating a tortious act as the legal basis for the claim and stating the accordant matters of fact.
3. All claims must be filed in EURO (€). Claims stated in other/foreign currencies must be converted at the rate applicable at the date the insolvency proceedings were initiated. Such date can be learned from the accordant court order. The filed amount must be subdivided into principal claim, collateral charges and interest. Furthermore a calculation of the total receivables must be submitted.
4. Other claims than claims for money or claims not fully ascertainable have to be filed using an estimated value.
5. Claimed interest the exact interest rate and interest period must be stated. Payable interest must be calculated up to one day previous to the day the insolvency proceedings were initiated.
6. With respect to interest incurred after the initiation of the insolvency proceedings and with respect to the costs incurred by the creditor through his participation in the insolvency proceedings (e.g. costs for legal counsel and for travel), please confer to Section 13.
7. Documents providing evidence of claims (e.g. court judgements, judicial execution orders, cost determination orders, bills of exchange, cheques, debt instruments, etc.) must be submitted along with the claim.
8. Representatives of the creditors must submit a power of attorney regarding the insolvency proceedings to prove their entitlement to act on behalf of the creditor. According to § 88 Section 2 ZPO lawyers only have to provide such power of attorney to the court if their entitlement has been challenged.
9. If several creditors are entitiled to assert the same claim, the proportionate ratio must be submitted, i.e.
 - whether payment has to be effected proportionately,
 - whether payment has to be effected to all the creditors jointly (e.g. community of heirs, partnership),
 - whether one of the creditors is entitiled to receive payment on behalf of all creditors (joint creditors)..
10. The creditors or their representatives are not obliged to participate in the claim examination hearing. Creditors whose filed claims are disputed, either in whole or in part, will receive an official extract from the insolvency table after conclusion of the claim examination hearing. Creditors whose claims are confirmed will not receive any notification concerning the result of the claim examination hearing.

Under certain circumstances he court is entitiled to rule that proceedings are to be solely conducted in writing. In such case no claim examination hearing will be held
11. Claims regarding the separation of certain rights or items (e.g. on the basis title or reservation of title) and claims regarding a separate settlement (e.g. on the basis of a lien or security transfer) must be submitted to the Insolvency Administrator – not to the insolvency court – without undue delay.
12. To avoid damages claims, creditors claiming security interests to movable items or to rights possessed by the debtor must notify the Insolvency Administrator regarding the item in which such security interest is claimed, the type of and reason for such an interest (such as reservation of title, security transfer, security assignment, lien) and the accordant (secured) claim without due delay.

13. Creditors of subordinated claims are only entitled to file their claims when formally requested by the local court.

Subordinated claims are:

- a) the interest incurred on insolvency claims after the initiation of insolvency proceedings,
- b) costs incurred by insolvency creditors through their participation in the proceedings,
- c) fines and penalties and any secondary consequences of a crime or offence involving a compulsory payment,
- d) claims to a free service by the debtor,
- e) a claim to return of a capital-replacing loan by a shareholder, or equivalent claims,
- f) ordinary insolvency claims for which later entry in the insolvency proceedings has been agreed between the creditor and debtor.

Such subordinated insolvency claims will be considered in the ranking order listed above under a) – f); if ranking is identical, they will be considered in the ratio of amounts owing. Interest and costs for secondary claims have the same ranking as the claims themselves.

14. In case of insolvency proceedings over a decedent's estate the following claims are subordinated and will be considered in the ranking order after the claims mentioned under Section 13 a) to f) or, if the ranking is identical, in the ratio of amounts owing:

- a) Claims regarding the legitimate portion
- b) claims arising from legacies or obligations
- c) claims of persons who have rights that are replacing claims arising from a heritage.