

# Information sheet for lodging a claim

## Time limits to be observed!

As you may have gathered from the accompanying order of the insolvency court, insolvency proceedings have been opened regarding the assets of the debtor named therein, which also serve the uniform satisfaction of creditors' claims.

Every creditor, including the tax authorities and the social insurance institutions of Member States, may **lodge a written claim in the insolvency proceeding**. This also applies to creditors whose habitual residence, domicile, or registered office is in a different Member State than the State in which the insolvency proceedings were opened (Article 39 of the Council Regulation on Insolvency Proceedings). Creditors may also lodge their claims in the official language or in one of the official languages of such other State. In this case, the claim must at least contain the **heading "Anmeldung einer Forderung" ("Lodgement of a Claim") in the German language**. The creditor may be required to provide a translation of the claim in German (Article 42 para. 2 of the Council Regulation on Insolvency Proceedings).

The lodgement of the claim must take place **within the time period set forth in the accompanying order opening the insolvency proceedings** (§ 28 para. 1 of the Insolvency Statute).

The **time period** set forth in the order opening the insolvency proceedings is **not a preclusive period**. Claims that have been lodged after the time period has expired may also be verified in the verification meeting if neither the insolvency administrator nor a creditor objects. However, **claims that are lodged subsequently** may require an **additional verification process**. The **costs arising therefrom – currently EUR 15.00 – will be borne by the creditor who lodged a claim late** (§ 177 para. 1 of the Insolvency Statute).

The lodgement of the claim shall not be made to the insolvency court, but **to the insolvency administrator set forth in the accompanying order opening the insolvency proceedings** (§ 174 of the Insolvency Statute). If a custodian or trustee is appointed (§§ 270, 313 of the Insolvency Statute), the lodgement of the claim shall be made there.

In the lodgement, the creditor shall state the **form, the date the claim arose, and the amount of the claim**, accompanied as applicable by available **supporting documents, as well as records upon which the claim is based** (Article 41 of the Council Regulation on Insolvency Proceedings; § 174 para. 1 of the Insolvency Statute).

In addition to the lodgement, **the basis for the claim** and, if applicable, the **facts from which, in the opinion of the creditor, it appears to be based on an unauthorised intentional act committed by the debtor** (§ 174 para. 2 of the Insolvency Statute). Unauthorised acts intentionally committed by the debtor shall remain unaffected by the grant of discharge from residual debt if the creditor had lodged a corresponding claim with information regarding this legal basis and the acts upon which it was based (§ 302 no. 1 of the Insolvency Statute).

All claims are to be asserted as fixed amounts stated **in euros** and the total amount must be summarised. **Claims in foreign currency must be converted to euros** at the exchange rate applicable at the time the proceedings were opened. Claims that are not based upon money or whose value is uncertain must be lodged with their estimated value (§ 45 of the Insolvency Statute).

The following claims are subordinate and **may only be asserted following a separate request by the court (lodgements that are made without the corresponding request from the court must be rejected as inadmissible)**:

- the interest accruing on the claims of the creditors of the insolvency proceedings from the opening of the insolvency proceedings;
- the costs incurred by individual creditors of the insolvency proceedings due to their participation in the proceedings;
- fines, administrative penalties, coercive penalty payments, as well as such incidental legal consequences of a criminal or administrative offence binding the debtor to pay money;
- claims to the debtor's gratuitous performance of a consideration;
- claims to the refund of loans borrowed from a partner and replacing equity capital, or claims having the same rank as these.

Upon the lodgement of such claims, the lower rank shall be indicated and the lower rank to which the creditor is entitled shall be designated (§ 174 para. 3 of the Insolvency Statute).

It is expressly advised that claims lodged insufficiently (e.g. absence of the copy of the lodgement) cannot be recognised in the verification meeting. There is no obligation to appear in the verification meeting or to send a representative to the verification meeting.

To the extent creditors claim **security rights in movable property or rights of the debtor**, they must **promptly inform the insolvency administrator** thereof **by separate letter**. The object in which a security right is claimed and the form and basis upon which the security right and the secured claim arise must be described. **Any person who by fault omits to provide this information, or provides it late, will be liable for the consequent damage** (§ 28 para. 2 of the Insolvency Statute).

**Creditors with a right to separate satisfaction** based upon a lien or other security right **are creditors in the insolvency proceedings** if they also have a personal claim against the debtor, such as from a loan or purchase agreement. **This personal claim may be lodged**. It will only be considered in the distribution of the insolvency assets, however, to the extent that they waive their right to separate satisfaction, or that such separate satisfaction has failed (§ 52 of the Insolvency Statute).

**Anyone entitled to claim the separation of an object from the assets involved in the insolvency proceedings based upon a real property right or personal property right** (e.g. as owner) **will not be included as a creditor in the insolvency proceedings**. **Entitlement to separation** of such object **from the assets must not be lodged in the insolvency proceedings** but will instead be governed by the legal provisions applying outside the insolvency proceedings (§ 47 of the Insolvency Statute).

Creditors whose lodged claim was denied wholly or in part in the verification meeting will be informed after the verification meeting. **Creditors whose claims have been established will not be notified (§ 179 para. 3 sentence 3 of the Insolvency Statute)**. This will be advised beforehand in the insolvency administrator's circular to creditors.

Separate queries regarding the outcome of the establishment of a claim cannot be answered.