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Global Practice Guides

Insolvency

Law and Practice – Norway

Contributed by
Kvale Advokatfirma DA

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NORWAY

LAW AND PRACTICE:

p.3

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The 'Law & Practice' sections provide easily accessible information on navigating the legal system when conducting business in the jurisdiction. Leading lawyers explain local law and practice at key transactional stages and for crucial aspects of doing business.

Law and Practice

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Kvale Advokatfirma DA's insolvency and corporate recovery team consists of sixteen attorneys, of whom five are partners, all with insolvency and restructuring as their key practice area. A staff of six experienced paralegals provides key support functions within accounting, standardised legal work and the governmental wages guarantee scheme. This makes the insolvency team one of the largest in Norway, and leading within its field.

Kvale's insolvency and corporate recovery team assists several Norwegian banks with their "problem cases" on a

regular basis, and also advises businesses and board members during restructuring processes. The team administers approximately 150 new insolvency proceedings each year, including a number of the largest bankruptcy cases in Norway. All five team partners are regularly appointed as administrators/trustees, each specialised within different areas of national and international insolvency-related work. Kvale's offices are situated in the city centre of Oslo. Kvale is also part of the top-tier world-wide international alliance TagLaw, as well as the national 'Advocatia' network.

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1. Market Trends and Developments

1.1 The State of the Restructuring Market

Norway has seen an increased number of out-of-court restructurings over the past few years, especially after the drastic drop in oil prices in late 2014 and continued low oil prices. A number of companies operating in or in close proximity to the oil and offshore industries have had severe challenges, and bank and bond loan facilities have been renegotiated and extended for a large number of these companies. Only a few have had to petition for formal statutory bankruptcy proceedings.

A total of 4337 winding-up proceedings and 1528 forced dissolution proceedings were opened in Norway in 2016. Only 8 judicial restructuring proceedings were opened, all of which ended in winding-up proceedings. A number of companies initiated out-of-court restructurings, many of

which are still attempting to carry out a successful restructuring plan.

The low oil prices have taken their toll on the Norwegian economy, and there has been little economic growth in the last couple of years. However, the economy now has a steadier growth than in the previous few years, and the unemployment rate is decreasing. The key policy rate remains historically low and, in June 2017, Norway's central bank, Norges Bank, decided to keep the rate unchanged at 0.5%. The rate is expected to be gradually increased from 2019.

1.2 Changes to the Restructuring and Insolvency Market

Credit institutions and bond loan holders tend to be more prone to refinancing in the offshore sector, probably due to

acknowledging that this current oil crisis is hitting a market that is vital to the Norwegian economy. However, so far the banks have been prone to accept amendments and extensions of loan facilities, and have taken few haircuts. Furthermore, fewer new loans are issued.

Export Credit Norway (a Norwegian state-owned company that helps Norwegian exporters to succeed abroad by offering Norwegian and foreign companies competitive financing when they buy goods and services from Norwegian exporters) reported a year ago that half of their offshore loans were under restructuring. Earlier this year, they reported that they expected several further larger restructurings in 2017, but also that offshore-related industries were reorganising, especially the shipyard industry. For instance, in January 2015, 82% of shipyards' backlog was offshore vessels, whilst in September 2016 the number was 42%, as the yards have shifted their focus more towards passenger ferries, fishing boats, well boats and service vessels for offshore wind.

The offshore crisis has resulted in increased activity within distressed debt investing, debt trading and distressed M&A transactions within this sector.

2. Statutory Regimes Governing Restructurings, Reorganisations, Insolvencies and Liquidations

2.1 Overview of the Laws and Statutory Regimes

The Bankruptcy Act of 1984 regulates voluntary and compulsory statutory restructuring proceedings (the latter providing "cram-down" rules), as well as winding-up proceedings.

The Satisfaction of Claims Act of 1984 regulates an estate's automatic seizure of the debtor's assets, how an estate can handle the debtor's contractual obligations, which claims are entitled to dividend payment and the priority between these claims, etc.

Other relevant legislation includes the Mortgage Act of 1980, which regulates security interests such as pledges, mortgages, liens, retention of title rights, etc; the Enforcement Act of 1992, which regulates enforcement of secured and unsecured claims; and the 2004 Act on Financial Security, which, inter alia, gives exceptions to the Enforcement Act. Further, the Limited Liability Companies Act of 1997 regulates compulsory liquidations and directors' liability, the Wages Guarantee Scheme Act of 1973 regulates employees' right to payment from the governmental Wages Guarantee Fund when their employer goes bankrupt, and the 1996 Act on Guarantee Schemes for Banks and Public Administration etc of Financial Institutions provides regulation on insolvency proceedings in financial institutions.

2.2 Types of Voluntary and Involuntary Financial Restructuring, Reorganisation, Insolvency and Receivership

Statutory bankruptcy and insolvency proceedings in Norway include restructuring proceedings (either voluntary or compulsory), insolvent winding-up proceedings, and forced liquidation or dissolution proceedings, which are more or less handled in the same way as winding-up proceedings.

2.3 Obligation to Commence Formal Insolvency Proceedings

Norwegian law does not set specific timelines in this respect; however, see **12 Duties and Personal Liability of Directors and Officers of Financially Troubled Companies**.

2.4 Procedural Options

The company can commence non-statutory voluntary restructuring proceedings or other voluntary arrangements, as well as statutory debt restructuring proceedings – either voluntary or compulsory – or winding-up proceedings.

2.5 Liabilities, Penalties or Other Implications for Failing to Commence Proceedings

See **12 Duties and Personal Liability of Directors and Officers of Financially Troubled Companies**.

2.6 Ability of Creditors to Commence Insolvency Proceedings

Only the debtor can file for statutory restructuring proceedings. Either the debtor or its creditors may petition for winding-up proceedings, but such proceedings will only be opened if the debtor is insolvent. Forced liquidation or dissolution proceedings are opened by the court upon receipt of a notification from the national business registry; see **7.1 Types of Statutory Voluntary and Involuntary Insolvency and Liquidation Proceedings**.

2.7 Requirement for "Insolvency" to Commence Proceedings

The debtor must be insolvent (ie, illiquid, with negative net assets) in order to commence winding-up proceedings, but only has to be illiquid in order to commence statutory restructuring proceedings. There are no such requirements for non-statutory proceedings. Insolvency is not a prerequisite for forced liquidation or dissolution proceedings.

2.8 Specific Statutory Restructuring and Insolvency Regimes

The 1996 Act on Guarantee Schemes for Banks and Public Administration, etc, of Financial Institutions provides that insolvency proceedings subject to the Bankruptcy Act may not be applied to banks or insurance companies. Such a financial institution may instead be taken under public administration if it is unable to pay its obligations as they fall due and cannot secure a sufficient economical basis for

further operations, or if it is unable to fulfil its capital requirements.

The act further sets out that each bank with its main office or a subsidiary in Norway has to be a member of The Norwegian Banks' Guarantee Fund. The Guarantee Fund guarantees the customers against loss due to an insolvent bank not being able to honour their bank deposits, limited to NOK2 million per customer, and also provides a guarantee scheme for insurance customers.

3. Out-of-Court Restructurings and Consensual Workouts

3.1 Consensual and Other Out-of-Court Workouts and Restructurings

Out-of-court consensual restructurings are preferred by market participants in Norway. There are only a few cases each year where distressed companies file for formal statutory restructuring proceedings and, once filed, the outcome is rarely successful.

The perception amongst stakeholders, including financial institutions, seems to be that consensual restructuring processes best preserve both the value of the business and value for the stakeholders. Stakeholders tend to be supportive of a company experiencing financial difficulties pending a more detailed assessment of its financial position, as long as the stakeholders' position is not materially worsened. It is common in Norway that a financial institution has pledges/mortgages in most or all of the debtor's assets, and they will always weigh their involvement in a consensual out-of-court restructuring against the probable outcome of a bankruptcy sale of the secured assets.

Participants in the Norwegian restructuring market do not generally support consensual restructuring frameworks such as the "INSOL Principles".

There are no rules imposing a duty to negotiate with creditors before filing for bankruptcy or governing "pre-packed" bankruptcies.

If the creditors' situation is not worsened and there is a reasonable hope of succeeding with an out-of-court restructuring plan, an insolvent company is allowed to continue the procedures (however, see **12 Duties and Personal Liability of Directors and Officers of Financially Troubled Companies** regarding the duties of a board of directors and the managing director in such situations).

3.2 Typical Consensual Restructuring and Workout Processes

There is no tradition of appointing steering committees or co-ordinators in consensual proceedings. The process is usually organised by the debtor's legal adviser or other representatives of the debtor, and is carried out by negotiations with the largest stakeholders in separate or joint meetings, whilst attempting to raise capital to finance a restructuring or a composition.

The company may introduce a "standstill" of their debt, except for running costs necessary to keep the business going while attempting to negotiate a restructuring plan. The standstill may be applied to all creditors, or for example only to the largest/key stakeholders and intercompany debt.

Creditors will normally expect to receive information about the company's economic situation and future prospects for the business, as well as the expected outcome for the creditors, whether the restructuring is successful or not. Financial institutions will often require the shareholders to contribute new capital.

All the debtor's contracts and security interests must be respected unless otherwise agreed through negotiations, and all creditors must be treated equally (according to the priority of their claim) and fairly.

There is no "cram-down" feature in out-of-court consensual restructurings in Norway. However, it is still perceived as a more workable process than compulsory statutory debt restructuring proceedings where there is a "cram-down" feature.

3.3 Injection of New Money

Norwegian restructuring law has no provisions facilitating super-priority financing. It is not common for super-priority financing to be accorded to new money outside a statutory or formal process. New funds aimed at financing the restructuring period in consensual restructuring proceedings are usually provided by existing secured lenders and/or shareholders.

3.4 Duties of Creditors to Each Other, or on the Company or Third Parties

There is no specific legislation regulating out-of-court restructuring processes. Applicable principles imposing duties between creditors or between the debtor and creditors or third parties include, inter alia, the standard of proper business conduct, a duty for contract parties to act in good faith, rules enabling the court to set aside or revise unfair contract terms, an obligation for insolvent companies to treat all creditors equally and fairly, EU-based competition regulation, including rules on preventing discrimination, and tort and criminal liability for fraudulent actions. Furthermore,

all parties are bound by statutory law aimed at preventing money laundering, corruption, illegal insider trading, etc.

3.5 Consensual, Agreed Out-of-Court Financial Restructuring or Workout

Under Norwegian law, minority creditors and/or owners cannot be crammed down in an out-of-court financial restructuring process. Thus, this is entirely dependent on what has been agreed in any inter-creditor agreement. However, out-of-court restructurings are still applied in the vast majority of cases, as the Norwegian restructuring legislation is not considered sufficiently flexible to be a suitable tool for the restructuring of large businesses involving complex financial structures.

4. Secured Creditor Rights and Remedies

4.1 Type of Liens/Security Taken by Secured Creditors

A real estate mortgage must be registered in the national land register in order to obtain legal protection against other creditors and a bankruptcy estate.

A share pledge obtains legal protection upon notification to the company. The pledgee will normally also require a copy of the company's shareholder register evidencing the correct registration of the pledge.

Moveable property is generally divided into "inventory/stock", "machinery and plant" and "motor vehicles and construction machines". Assets included in these categories may be pledged as floating charges. Motor vehicles may also be pledged individually, and creditors could secure retention of title in assets included in these categories, unless the assets are intended for onward sale. Trade receivables may also be encumbered by way of a floating charge or a factoring agreement, and a single monetary claim may be pledged or transported as security, obtaining legal protection through notification to the debtor.

All floating charges, as well as all encumbrances in registered motor vehicles, obtain legal protection by registration in the relevant register in the Brønnøysund Register Centre.

Mortgages and other rights in ships and other moveable offshore installations obtain legal protection through registration in the Norwegian International Ship Register, if the vessel is registered there, or in the Shipbuilding Register if the vessel is under construction or the construction contract is registered there.

Costs for establishing voluntary security interests in assets in Norway are generally low, and the process is fairly time-efficient.

Assets may also be encumbered with statutory liens. Examples include shared costs in a housing association or water and sewer fees to the municipality, which are secured in the property up to a specified amount. Particularly interesting in insolvency cases is the bankruptcy estate's statutory lien in all assets posed by the debtor or by a third party as security for the debtor's obligations. The lien is capped at 5% of the relevant asset's net value, and the estate may only apply the lien to cover necessary costs for handling the bankruptcy process.

4.2 Rights and Remedies for Secured Creditors

In non-statutory restructuring processes, secured creditors retain all their rights and are free to accept or decline any proposal from the debtor. They are stayed from enforcing their security interests during the first six months of statutory compulsory restructuring processes and winding-up proceedings.

The debt restructuring committee in statutory debt restructuring proceedings shall work out a plan that safeguards the interests of secured creditors.

In winding-up proceedings, encumbered assets may only be sold by the bankruptcy estate if:

- all claims secured by the relevant asset are paid in full;
- all creditors with such secured claims who will not be paid in full agree to the sale;
- the sale of secured assets along with other assets belonging to the debtor will give a higher sales price than a piece-by-piece sale, or if secured assets are included in a sale of the business as going (these options are rarely applied in practice); and
- the estate petitions for a forced sale.

4.3 The Typical Time-lines for Enforcing a Secured Claim and Lien/Security

The timeline for enforcing a secured claim depends somewhat on the character of the security and the caseload of the local court, but it usually takes at least two to three months to conclude a forced sale of encumbered assets through an execution officer or the court. In non-consumer contracts, a financial institution may agree on a quicker and easier enforcement process for financial securities such as bank accounts and shares, as long as the agreement is made in writing.

4.4 Special Procedures or Impediments That Apply to Foreign Secured Creditors

There are no special procedures or impediments that apply to foreign secured creditors.

4.5 Special Procedural Protections and Rights for Secured Creditors

Pledged assets may not be sold in a statutory insolvency or restructuring proceeding without the secured creditors' consent, with certain exceptions; see, for instance, **6.7 Restrictions on the Company's Use of or Sale of its Assets During a Formal Restructuring Process**.

5. Unsecured Creditor Rights, Remedies and Priorities

5.1 Differing Rights and Priorities Among Classes of Secured and Unsecured Creditors

The various classes of secured and unsecured creditors are as follows:

- claims from employees for wages, remuneration and vacation allowance, subject to specific conditions;
- claims for tax and VAT not older than six months;
- "regular claims" (all non-priority and unsecured claims); and
- claims ranking last in priority, such as interests accrued after bankruptcy proceedings were opened and subordinated claims.

Secured creditors only have priority for coverage from that security, with any remaining claim after utilising that security being a regular claim in the estate.

Any dividend payment to the creditors is a waterfall payment, according to the order of priority set out above.

Secured creditors have priority for any coverage from their security.

5.2 Unsecured Trade Creditors

It is not uncommon in Norway for informal and consensual restructuring negotiations to be carried out only between the key stakeholders, leaving the unsecured trade creditors unaffected.

5.3 Rights and Remedies of Unsecured Creditors

After a petition for voluntary statutory debt restructuring proceedings has been delivered to the court, there is an automatic stay of any new or pending bankruptcy petitions against the debtor. The stay lasts for three months after proceedings are opened, but may be prolonged by the court at the debtor's request if the court finds it likely that the debtor will be able to carry through a successful restructuring plan.

If compulsory judicial debt restructuring proceedings are opened, the debtor is protected from bankruptcy petitions throughout the proceedings.

A bankruptcy petition filed by at least three creditors entitled to dividend payment, and whose claims amount to a total of at least two fifths of all known creditors entitled to dividend payment, is exempt from the aforementioned stays. Furthermore, petitions based on claims that arose after the opening of the proceedings are generally exempt from such stays.

Unless the court has decided otherwise, creditors cannot attach an execution lien in the debtor's assets for claims that arose prior to the opening of debt restructuring proceedings.

5.4 Pre-Judgment Attachments

A creditor may petition for a temporary seizure of the debtor's assets pending a court hearing or enforcement of their claim if there is reason to believe that the debtor will dispose of its assets before the creditor has had time to obtain security or a judgment.

Further, someone with an alleged claim which is not a monetary claim against another party may petition for a temporary injunction to secure the claim and prevent any damaging action pending a judgment or enforcement decision.

The Maritime Act of 1994 provides rules on the arrest of vessels.

5.5 Typical Timeline for Enforcing an Unsecured Claim

An undisputed claim could form direct grounds for a petition for attachment of an execution lien, whilst a disputed claim will first need to be confirmed through a judgment.

Once an execution lien is attached to the debtor's assets, the creditor may claim enforcement by way of a forced sale.

The length of time it will take to handle an enforcement petition depends on the efficiency and capacity of the relevant execution office. In general, it will take two to three months from a petition being sent for an execution lien to be established.

Thereafter, the creditor must petition for enforcement of the execution lien. The timeline for a forced sale of an asset depends on, inter alia, the type of asset, and might take several months. During this process, the court's decision may be subject to appeal, possibly delaying the process for months or sometimes even years.

5.6 Bespoke Rights or Remedies for Landlords

In winding-up proceedings, the bankruptcy estate is initially not bound by any tenancy agreement, but must pay rent on a

day-to-day basis as a preferential claim until the estate gives notice to the landlord that it will not be a party to the contract, and puts the property at the landlord's disposal. If the trustee fails to take these steps within the first four weeks of the winding-up proceedings, the estate automatically becomes a contractual party to the tenancy agreement.

The landlord's right to evict tenants who are not paying their rent is subject to the automatic stay in bankruptcy proceedings; see **5.3 Rights and Remedies of Unsecured Creditors**.

Except for the abovementioned day-by-day payment of rent and any amount deposited in a separate locked bank account, the landlord's claims/losses are unsecured and not ranking in priority.

5.7 Special Procedures or Impediments or Protections That Apply to Foreign Creditors

There are no special procedures or impediments that apply to foreign creditors.

5.8 The Statutory Waterfall of Claims

See **5.1 Differing Rights and Priorities Among Classes of Secured and Unsecured Creditors**.

5.9 Priority Claims

Before any distribution from the estate to the creditors can take place, all costs related to the handling of the bankruptcy proceedings are to be covered, ie fees to the trustee, the creditors' committee and estate auditor in addition to costs incurred by the bankruptcy estate after proceedings are opened.

If there are further means in the estate after covering these costs and fees, they will be distributed to the creditors in the waterfall sequence listed in section above, under **5.1 Differing Rights and Priorities Among Classes of Secured and Unsecured Creditors**.

5.10 Priority Over Secured Creditor Claims

No claims have priority over secured creditors to coverage from assets posed as security, except for the bankruptcy estate's statutory lien of 5%; see **4.1 Type of Liens/Security Taken by Secured Creditors**.

6. Statutory Restructurings, Rehabilitations and Reorganisations

6.1 The Statutory Process for Reaching and Effectuating a Financial Restructuring/Reorganisation

In Norway, there is a two-step test for insolvency: illiquidity and negative net assets. To open statutory restructuring proceedings, the court only applies an illiquidity test, and

a company can thus be solvent upon petitioning for debt restructuring proceedings. The winding-up proceeding described under **7 Statutory Insolvency and Liquidation Proceedings** is the only bankruptcy proceeding in Norway that requires the debtor to be insolvent.

Only the debtor can file a petition for statutory debt restructuring proceedings. A court decision to open such proceedings is public, and cannot be appealed.

The court appoints an administrator (in practice a lawyer) and a creditors' committee, forming a debt restructuring committee with the administrator as leader. The members of the creditors' committee are usually representatives from large creditors, and in some cases employee representatives.

The debtor's business operations normally continue as usual, and the board of directors upholds their functions and duties, and shall attempt to work out a plan to propose to the creditors while being supervised by the debt restructuring committee. The court tends to take a very passive role.

Statutory debt restructuring proceedings can be either "voluntary" or "compulsory". One main difference between voluntary and compulsory restructuring proceedings is that a plan in a voluntary proceeding must be accepted by all creditors, whereas creditors may be crammed down in a compulsory proceeding. A voluntary proceeding is hence successful if all creditors whose claims are affected vote for the plan. If certain conditions are fulfilled, including that no one votes against the plan, the plan can also be carried through if creditors representing at least three quarters of the total claims agree to it.

In a compulsory proceeding, a majority may cram down the minority of creditors entitled to vote. If the proposed composition entails a dividend payment of at least 50% of the unsecured claims not ranking in priority, the composition is approved if at least three fifths of the voting creditors accept, and if they represent at least three fifths of the total debt entitling voting rights. If the proposed composition entails a dividend payment of less than 50% and more than 25%, the composition is approved if at least three quarters of the voting creditors accept, and if they represent at least three quarters of the total debt entitling voting rights. Any plan entailing less than a 25% dividend payment will need to meet the voting requirements of a voluntary debt restructuring proceeding.

Creditors with security in the debtor's assets will not have voting rights for any part of a claim that is fully secured. Furthermore, no voting rights are granted for claims ranking in priority and any other claim which is to be paid in full, as well as contingent claims and claims from creditors who are closely related parties to the debtor.

A new proposal may be made if the plan does not reach the voting requirements, subject to certain requirements. If the restructuring attempt is unsuccessful, winding-up proceedings will “automatically” be opened by the court. Thus, there are only two outcomes of statutory debt restructuring proceedings: a successful plan or winding-up proceedings.

There are no limitations on the contents of a proposed restructuring plan, as long as the plan – with certain exceptions – includes all creditors and treats them equally, and as long as the plan is accepted by the creditors in accordance with the abovementioned voting rules.

The statutory restructuring scheme in Norway is generally not considered very practical or useful; as such, proceedings are rarely successful and usually end in winding-up proceedings. The statutory restructuring scheme is currently under review.

6.2 Position of the Company During Procedures

When proceedings are opened, payment of already accrued debt as of the petition date is stayed. Furthermore, there is an automatic stay for enforcement of such claims against the debtor; see **5.3 Rights and Remedies of Unsecured Creditors**.

As mentioned in **6.1 The Statutory Process for Reaching and Effectuating a Financial Restructuring/Reorganisation**, the company usually continues “business as usual” and an administrator/trustee is appointed by the court.

The company is not in a position to take on new financial obligations while under statutory restructuring proceedings, and may not borrow new money during the process unless accepted by the administrator/creditors’ committee.

6.3 The Roles of Creditors During Procedures

Creditors are divided into separate creditor classes for the purpose of voting (see **6.1 The Statutory Process for Reaching and Effectuating a Financial Restructuring/Reorganisation**), and for the purpose of paying out dividends according to the waterfall payment rules (see **5.1 Differing Rights and Priorities Among Classes of Secured and Unsecured Creditors**).

Creditors are not organised in any way, other than any representation in the aforementioned creditors’ committee.

The creditors are informed of the opening of proceedings. When the debt restructuring committee and any court-appointed auditor find that there are prospects of the debtor being able to carry out a restructuring plan, they will distribute to the creditors a report on the debtor’s economic affairs, along with the proposed plan, informing the creditors

whether or not they recommend the plan and explaining the outcome for the creditors if the plan is not accepted.

6.4 Modification of Claims

The claims of a dissenting class of creditors may not be modified without their consent.

6.5 Trading of Claims

A creditor may sell its claim at any time during a restructuring or insolvency proceeding, as long as the position of the debtor and the other creditors remains unaffected.

6.6 Using a Restructuring Procedure to Reorganise a Corporate Group

There are no corporate group insolvency rules under Norwegian law.

6.7 Restrictions on the Company’s Use of or Sale of Its Assets During a Formal Restructuring Process

During a restructuring or insolvency procedure, the debtor is not allowed to sell or rent out its real property, its business premises or any asset of significant value, without prior consent from the debt restructuring committee.

The debtor may sell pledged inventory/stock, machinery and plant, and motor vehicles and machines whilst under statutory debt restructuring proceedings, as long as this is part of the debtor’s regular business operations and the secured creditors’ security interests are not significantly impaired. Any asset the debtor acquires whilst under statutory debt restructuring proceedings is not included in any pre-existing general pledge without the consent of the debt-restructuring committee.

6.8 Asset Disposition and Related Procedures

The debtor executes any sale of assets whilst under debt restructuring proceedings. The debt restructuring proceedings do not prevent a purchaser from acquiring good title in a sale, free and clear of claims, if the debt restructuring committee and the security holders agree (or the secured claim is paid in full).

There is no legislation in Norway that regulates credit-bidding or pre-packed sales.

6.9 Release of Secured Creditor Liens and Security Arrangements

In a voluntary statutory debt restructuring proceeding, security and other claims can only be released with consent from the creditor, unless paid in full.

In a compulsory restructuring proceeding, any pledges exceeding the estimated value of the pledged asset are annulled if the proceeding is successful. The value of the pledged assets is determined by the debt restructuring committee, but a

pledgee may, under certain circumstances, deliver a demand for a valuation to the court; see **16 The Importance of Valuations in the Restructuring & Insolvency Process**.

6.10 Availability of Priority New Money

Priority new money may not be made available to the company pursuant to the restructuring procedure, nor can it be secured in the company's assets unless accepted by the creditors and the debt restructuring committee on a voluntary basis.

6.11 Statutory Process for Determining the Value of Claims

The outcome of a judicial debt restructuring proceeding is either a successful composition or winding-up proceedings. These proceedings are therefore not suitable solely for determining the value of claims or for determining which creditors have an economic interest in the debtor.

6.12 Restructuring or Reorganisation Plan or Agreement Among Creditors

A voluntary debt restructuring plan is final and binding when the voting requirements have been met, whilst a compulsory debt restructuring plan is binding when the court has affirmed the plan in a court decision and the time of appeal has expired.

There is no general fairness test to be applied, but the court may dismiss the plan in certain situations, eg if the debtor has committed criminal offences whilst doing business, or if a creditor has benefited at the cost of others, or if the plan is not in the creditors' common interest.

6.13 The Ability to Reject or Disclaim Contracts

Neither the company nor an office holder is given wider permission to reject or disclaim contracts in this procedure.

6.14 The Release of Non-debtor Parties

Any guarantor for claims against the debtor could be released of their liabilities through a successful debt restructuring, since any settlement or reduction of the guaranteed claim would reduce the guarantor's liability correspondingly.

6.15 Creditors, Rights of Set-off, Off-set or Netting

As a general rule, creditors with a right to set off their claim before proceedings are opened are also entitled to do so after proceedings are opened. However, set-off is not permitted if the debtor's claim fell due before the opening of proceedings, whilst the creditor's claim had not fallen due as per the opening of proceedings.

A creditor who has acquired a claim against the debtor less than three months prior to when the petition for proceedings was received by the court, or who has acquired a claim earlier than this whilst knowing that the debtor was insol-

vent, cannot set off such a claim with a claim that the debtor owned when the creditor acquired its claim.

If the creditor has obtained a claim against the debtor in a way comparable to a transaction eligible for claw-back, set-off is prohibited.

Claims ranking last by order of priority cannot be applied for set-off unless the claims have arisen out of the same legal relation or all other claims ranking higher in priority are covered in full. The right to set-off is also limited if the creditor's claim is contingent.

6.16 Failure to Observe the Terms of an Agreed Restructuring Plan

The accepted/court-approved plan is binding on all creditors who are affected by it, and if the debtor fails to observe the plan, creditors must collect their claim according to ordinary debt-collection rules.

If winding-up proceedings are opened by the debtor before the plan has been fulfilled, any creditor who has not received full payment according to the plan will have a right to calculate their dividend payment from the full amount of their original claim; however, any dividend payment from the bankruptcy estate may never exceed the amount accepted as full payment under the composition plan.

6.17 Receive or Retain Any Ownership or Other Property

The Norwegian rules on debt restructuring have no rules whereby existing equity owners receive or retain ownership or other property on account of their ownership interests.

7. Statutory Insolvency and Liquidation Proceedings

7.1 Types of Statutory Voluntary and Involuntary Insolvency and Liquidation Proceedings

Either the debtor or its creditors may file a petition to the court for winding-up proceedings. The court will open proceedings if the debtor is insolvent, meaning that a) the debtor cannot meet obligations as they fall due and this is not temporary (illiquidity), and b) the debtor's assets and income are not sufficient to satisfy all obligations if allowed a delayed settlement whilst awaiting a sale of the assets (expressed as "negative net assets").

If a creditor files for bankruptcy based on a contested claim, the court will make a pre-judgment as to whether the claim exists and can serve as grounds for the bankruptcy petition. Nevertheless, proceedings will not be opened if the petitioning creditor has adequate security for its claim.

The court rarely overrules the petition if the debtor files for winding-up proceedings, and it usually only takes a few hours or at most a day or two until proceedings are opened.

A creditor-initiated petition for winding-up proceedings will usually be processed by the court within one to two months. However, it may take longer, depending on factors such as the nature of the claim, whether the debtor raises any objections, the efficiency/capacity of the court, etc.

The court appoints a trustee to handle the estate (in practice always a lawyer). It may also appoint an auditor for the estate and a creditors' committee. An auditor is usually only appointed in larger cases.

The debtor is stripped of any powers over the business operations and assets, and the court-appointed trustee and creditors' committee decide whether or not the business operations are to continue after proceedings are opened, and how and when the debtor's assets should be realised.

The court sets a deadline for the creditors to file their claim with the bankruptcy estate, approximately six weeks from the opening of proceedings. The deadline is not time-barred, and any claim filed later but before the bankruptcy proceedings have been finalised will usually be duly registered.

Most claims that arose prior to the opening of proceedings are entitled to a dividend payment, including contingent claims.

The trustee and creditors' committee test registers claims only if and when it is determined that there will be a dividend payment to those claims. If a claim is disputed, the trustee is to inform the court of the matter, and the court will set a deadline for the creditor to take legal action. If the creditor does not take legal action, the court rules in favour of the estate. When all claims have been tested, a meeting will be held where all creditors with approved claims receiving dividend payment will have a right to participate and give comments. The court then confirms the distribution in a decision, which can be appealed.

Creditors are free to trade their claims at any point whilst the debtor is under winding-up proceedings. The transfer should be notified and documented to the trustee.

The creditors' right to set off their claim against the debtor's claim follows the same rules as those for statutory debt restructuring proceedings; see **6.16 Failure to Observe the Terms of an Agreed Restructuring Plan**.

The bankruptcy estate is a separate legal entity from the debtor. As a result, a creditor cannot set off a claim against the debtor with a claim at the hand of the bankruptcy estate,

such as a claw-back claim. Furthermore, the bankruptcy estate does not automatically become a party to any ongoing court proceedings or any of the debtor's contracts.

If the debtor is a plaintiff in a pending court proceeding, that proceeding is automatically stayed. If the debtor is a defendant, the proceeding is not stayed, and the plaintiff has the right to bring the bankruptcy estate into the court proceeding as a new party, even if the bankruptcy estate has no desire to become a party to the dispute.

Though not a party by default, the bankruptcy estate has a right to become a party to all the debtor's contracts, and may practise "cherry-picking", entering into only those contracts that are beneficial to the bankruptcy estate. Upon becoming a party, the estate is only bound with effect from the opening of bankruptcy proceedings, and the estate does not have to pay any contractual claim the other party might have which arose before proceedings were opened. Such claims will have to be filed in the bankruptcy estate.

The bankruptcy estate is also granted an extraordinary termination right pursuant to the Satisfaction of Claims Act, allowing for a customary notice period or at most a notice period of three months, disregarding any less favourable termination clause in the contract.

There are two exceptions to the main rule of a bankruptcy estate not automatically becoming a party to the debtor's contracts, which are employment contracts and tenancy agreements – if the trustee fails to declare otherwise to the contractual parties within three and four weeks, respectively.

The trustee delivers an initial report to the court, which includes information about the debtor, any discovered assets, potential claims and liabilities, etc. The report is also normally presented orally to the court in a hearing, usually scheduled within the first month or two after proceedings are opened. Creditors may attend the hearing. Further, the trustee and creditors' committee submit an annual report with annual accounts for the estate. They also submit a final report to the court, with final accounts for the estate, when the proceedings are ready to be finalised. Creditors will receive the initial and final reports, and will also receive certain other information from the estate.

Any distribution to the creditors will take place after the court has passed a decision to conclude the proceedings and accept the proposed distribution plan, and after the one-month time-limit for an appeal has expired. If it is clear that the estate has sufficient funds to pay all claims within a priority class in full (eg, all claims ranking first in priority), distributions are to be made as soon as possible, even if the bankruptcy proceedings have not yet been finalised. Furthermore, any payment to security holders upon the sale of

encumbered assets will normally be made immediately after those assets are sold.

The duration of the proceedings depends on the size of the estate. Larger bankruptcy proceedings are more likely to go on for years, depending on, for example, when all assets have been realised and the conclusion of any court disputes related to claw-back or liability claims.

Forced liquidation or dissolution proceedings in accordance with provisions in the Limited Liability Companies Act of 1997 are opened by the court, and follow the same rules and are treated in the same way as insolvent winding-up proceedings. The grounds for forced dissolution proceedings include not submitting annual accounts or not having an auditor or a board of directors in compliance with statutory requirements.

7.2 Distressed Disposals as Part Insolvency/Liquidation Proceedings

The trustee executes the sale of assets or business operations. The bankruptcy proceedings as such do not wipe out any security holders' rights in the debtor's assets, but if the assets are sold as a whole or as part of the debtor's business operations with intent to continue the operations, the assets may be sold free of any pledge or security rights that supersede the value of the asset.

Norwegian law has no rules on credit-bidding or pre-packed sales. Any pre-packed sale must be done non-judicially and could be subject to claw-back rules and the consent of the trustee.

7.3 Implications of Failure to Observe the Terms of an Agreed or Statutory Plan

See **6.17 Receive or Retain Any Ownership or Other Property**.

7.4 Investment or Loan of Priority New Money

As the Norwegian liquidation proceeding involves liquidating and dissolving the company, and not restructuring it, the only financing an estate would need is the financing of the costs of handling the proceedings and the sale of assets. It is not uncommon for secured creditors to enter into agreements with the administrator of a bankruptcy/liquidation estate to guarantee or cover the administrator's costs related to the sale of secured assets or investigation of certain affairs of the company prior to bankruptcy, etc. However, this is a voluntary agreement between the estate and the entity contributing with funds or a guarantee, and is not regulated by law.

7.5 Insolvency Proceedings to Liquidate a Corporate Group on a Combined Basis

There is no statutory insolvency proceeding in Norway that can be utilised to liquidate a corporate group on a combined basis. If more than one company in a company group is taken under bankruptcy proceedings, there will be a separate bankruptcy estate for each of the companies in the group. It is common practice for the court to appoint the same trustee for all bankruptcy estates within the same company group or in affiliated companies.

7.6 Organisation of Creditors

The court appoints the members of the creditors' committee, usually one to three members, following suggestions from the trustee. Employees may have a right to appoint a representative. The creditors' committee is usually only involved in the most important decisions to be made during the proceedings, and has more of a controlling function. Any remuneration paid out from the estate is usually limited.

7.7 Conditions Applied to the Use of or Sale of Its Assets

All assets are automatically seized by the bankruptcy estate, and the trustee will make the decision to use or sell assets without being required to seek permission from the court.

8. International/Cross-border Issues and Processes

8.1 Recognition or Other Relief in Connection with Foreign Restructuring or Insolvency Proceedings

Foreign bankruptcy proceedings are not recognised by Norwegian courts unless based on a mutual agreement with the bankruptcy venue. Norway has only entered into one cross-border agreement with regard to insolvency proceedings, which is The Nordic Convention on Bankruptcy of 1933 between Norway, Denmark, Finland, Iceland and Sweden. This convention provides regulation on insolvency proceedings within these states, including rules on recognition, enforcement and choice of law in various situations.

8.2 Protocols or Other Arrangements with Foreign Courts

The courts in Norway have not entered into any protocols or other arrangements with courts in other countries to coordinate proceedings in cross-border cases.

8.3 Rules, Standards and Guidelines to Determine the Paramountcy of Law

Besides the Nordic Convention on Bankruptcy, only the Bankruptcy Act has rules on foreign or international bankruptcy proceedings.

8.4 Foreign Creditors

In Norway, foreign creditors are generally not dealt with any differently from domestic creditors in insolvency proceedings.

9. Trustees/Receivers/Statutory Officers

9.1 Types of Statutory Officers Appointed in Proceedings

In bankruptcy or similar proceedings in Norway, only one person – generally referred to as the trustee – is appointed by the court to handle the proceedings. The court-appointed trustee is always a lawyer.

The court may also appoint a creditors' committee with one or more representatives for the creditors, as well as an estate auditor.

9.2 Statutory Roles, Rights and Responsibilities of Officers

The trustee more or less functions as a “chairman” of the bankruptcy estate, with the creditors' committee acting as the “board of directors”. The trustee's main objective is to operate in the creditors' common interest and, *inter alia*, to safeguard and realise the debtor's assets, handle creditors including employees and their claims, investigate and assess whether any of the debtor's transactions may be subject to clawback and whether the board of directors of the debtor has undertaken any fraudulent behaviour, etc.

Together with the trustee, the creditors' committee shall maintain the common interests of the creditors, and especially ensure that the interests of employees and society are maintained. The committee shall further supervise the trustee.

An estate auditor shall go through and comment on the debtor's accounts and business conduct, and will in most cases issue a report with an overview of the debtor's financial development over the past few years before bankruptcy proceedings were opened, assessment of the debtor's business conduct, time of insolvency, etc.

9.3 Selection of Statutory Officers

Local courts in Norway usually have a shortlist of attorneys which are frequently appointed as trustees of bankruptcy estates. Someone filing for proceedings may ask the court to consider appointing one or more specific lawyers as trustee, and in most cases (but not all) the court usually adheres to the debtor's or creditor's wishes and appoints one of those suggested.

Members of the creditors' committee as well as the trustee auditor are usually appointed by the court upon recommendation from the trustee.

9.4 Interaction of Statutory Officers with Company Management

In statutory restructuring proceedings, the trustee and creditors' committee (together with the debt negotiations committee) merely supervise the debtor and co-operate with the debtor's board of directors to work out a plan.

In liquidation proceedings, any contact between the trustee/creditors' committee and the company management/directors is usually related to collecting information and documentation about the debtor.

9.5 Restrictions on Serving as a Statutory Officer

In order to serve as a trustee, an estate auditor or member of the creditors' committee, one must be competent, have no conflict of interests, and not be a related party to the debtor. The trustee must be an attorney and the estate auditor must be an authorised auditor; however, there are no similar requirements to become a member of the creditors' committee.

The court-appointed trustee is always a lawyer. Restructuring professionals, attorneys, accountants or other professionals may serve as members of the creditors' committee.

10. Advisors and Their Roles

10.1 Types of Professional Advisors

In a statutory proceeding, the court-appointed trustee may employ any adviser necessary in order to carry out its duties. Such advisers are usually only appointed in larger cases, and often no such advisers are engaged.

In a bankruptcy proceeding, such professionals are usually employed and compensated by the estate, often authorised by the creditors' committee. In certain scenarios, one or more creditors may have asked the estate to hire a professional and given a financial guarantee to compensate the professional's work.

In out-of-court restructurings and statutory debt negotiation proceedings, such officers are employed and compensated by the debtor. Any employment must be approved by the debt negotiation committee.

10.2 Authorisations Required for Professional Advisors

In a statutory proceeding, depending on the character and costs of the employment, the employment of external advisers has to be authorised either by the trustee alone or by the creditors' committee. No judicial approval is required.

In a voluntary out-of-court restructuring proceeding, it depends whether the company needs to obtain any approval other than from those authorised to make decisions on behalf of the company (usually the board of directors and/or CEO).

External professional advisers normally owe duties and responsibilities to the bankruptcy estate or the debtor company.

10.3 Roles Typically Played by the Various Professional Advisors

Whether or not external professional advisers are appointed and which types depends on the nature of each case. Typically, external advisers are appointed in relation to investigations, evaluations and/or legal disputes, and are often either attorneys or accountants/economists. Chief Restructuring Officers are usually only appointed in restructurings handled out of court.

11. Mediations/Arbitrations

11.1 Use of Arbitration/Mediation in Restructuring/Insolvency Matters

Arbitration cannot be utilised in relation to restructuring, liquidation and administration matters as such, but an estate could – in some cases – be involved in arbitration proceedings at the discretion of the trustee (not conflicting with the principle that bankruptcy proceedings are to remain public) or if it decides to pursue a claim on the debtor's behalf which arises from a contract with an arbitration clause.

11.2 Parties' Attitude to Arbitration/Mediation

If an estate wishes to pursue a claim under one of the debtor's contracts and that contract has an arbitration clause, the estate might not have any other choice than to agree to arbitration. Otherwise, the estate will rarely, if ever, agree to solve a dispute through arbitration, mainly since such proceedings are generally more costly than regular court proceedings.

11.3 Pre-insolvency Agreements to Arbitrate

Pre-insolvency agreements to arbitrate disputes are enforceable in statutory proceedings.

11.4 Statutes That Govern Arbitrations and Mediations

The Arbitration Act of 2004 governs arbitrations, while the Dispute Act of 2005 regulates mediations, both in and out of court.

11.5 Appointment of Arbitrators/Mediators

According to the Arbitration Act, there should be three arbitration judges, unless otherwise agreed between the parties. As far as possible, the parties should jointly agree on whom

to appoint as arbitration judges. If the parties cannot agree, and the tribunal shall consist of three judges, each party selects one judge, and these two judges select the third, who will be the leader of the tribunal.

If the required number of arbitration judges cannot be appointed in accordance with the mentioned rules, each of the parties may request that the court appoints the remaining judges.

In out-of-court mediations, the parties may agree who should serve as mediator and how the mediator shall be appointed.

The mediator in an in-court mediation is usually a judge, or someone appointed by the court.

Each arbitration judge or mediator in an out-of-court mediation should be independent and impartial, and qualified for the position. Otherwise, there are no statutory requirements or limitations as to whom can serve as an arbitrator or out-of-court mediator.

In-court mediators have to fulfil the same level of independence as a court judge.

12. Duties and Personal Liability of Directors and Officers of Financially Troubled Companies

12.1 The Duties of Officers and Directors of a Financially Distressed or Insolvent Company

A limited liability company must have reasonable equity and liquidity at all times, given the size and risk of its business operations. Furthermore, the equity is not to be lower than half the share capital. If these requirements are not met, the board of directors must immediately call for a General Meeting to inform the directors of the company's financial situation and suggest correctional measures. If the board of directors cannot find grounds for suggesting any measures, or if available measures are considered unfeasible, the board of directors must propose to dissolve the company or petition for statutory bankruptcy proceedings.

If the board of directors intentionally or with gross negligence omits to carry out these duties, it may give grounds for liability for damages. Furthermore, this may give grounds for a fine and/or up to two years' imprisonment in the following circumstances:

- if the omission has hindered the estate from clawing back money or assets and this is likely to significantly reduce the dividend payment to the creditors; or

- if the business operations are clearly running at a loss and the debtor has to know that it will not be able to settle due claims within a reasonable time.

Furthermore, a creditor may hold the board members and the general manager liable for damages if they have misled the creditor in order to provide credit which is not likely to be settled.

12.2 Direct Fiduciary Breach Claims

A bankruptcy estate may pursue a claim for damages against directors and other persons in leading positions (as well as the debtor's auditor and accountant) for actions or omissions deemed to have inflicted economic loss on the company and/or all the creditors.

If a loss is inflicted to only one or a few creditors, this/these creditor(s) must themselves pursue their claim for damages.

12.3 Chief Restructuring Officers

Although appointed in only a few cases to date, there seems to be an increasing trend to appoint CROs in larger consensual restructuring proceedings.

12.4 Shadow Directorship

The legal concept of shadow directorship does not exist in Norwegian legislation.

13. Transfers/Transactions That May Be Set Aside

13.1 Grounds to Set Aside/Annul Transactions

Transactions performed by the debtor prior to the opening of proceedings may be set aside or annulled ("clawed back") by the bankruptcy estate on various grounds.

"Extraordinary payments", meaning any payment of debt made prior to the opening of proceedings with extraordinary means of payment prior to its due date or with an amount which has considerably diminished the debtor's ability to meet their obligations, may be set aside unless the payment is considered to be ordinary.

"Security for old debt", ie any pledge or other security established by the debtor prior to the opening of proceedings, may be set aside to the extent that it secures debt accrued before the security was agreed, or if legal protection has not been obtained without unnecessary delay.

Any execution lien established in the debtor's assets later than three months prior to when the court received the petition for opening proceedings has no legal effect towards the estate.

Certain cases of set-off, unreasonable payments to closely related parties and gift transactions could also be set aside.

Finally, "bad faith transactions" may be clawed back; this means a transaction that improperly benefits a creditor at the expense of other creditors, or withholds the debtor's assets from serving as settlement to the creditors, or increases the debtor's debt to the detriment of the creditors, may be set aside if the debtor's financial standing was already weak or was severely weakened by the transaction, and if the beneficiary knew or should have known about the debtor's weak financial standing and those circumstances making the transaction improper.

13.2 Look-back Period

The general look-back period for claw-back is three months (one year for gifts). However, if the receiver/beneficiary is a closely related party to the debtor, the look-back period is usually extended to two years, and is extended to ten years in the case of a "bad faith transaction". The extended look-back period will usually be subject to a test excluding transactions made during a time when the debtor was without doubt solvent.

13.3 Claims to Set Aside or Annul Transactions

Only the bankruptcy estate represented by the trustee can bring such claims.

These claims may be brought only in compulsory judicial debt restructuring proceedings (by the debt restructuring committee) and in winding-up proceedings.

14. Intercompany Issues

14.1 Intercompany Claims and Obligations

Intercompany claims are generally treated in the same way as any other creditors' claims.

14.2 Offset, Set off or Reduction

Intercompany claims are subject to the same set-off rules as other creditors' claims.

14.3 Priority Accorded Unsecured Intercompany Claims and Liabilities

There is no special priority for intercompany claims, which have the same priority order as other creditors' claims.

14.4 Subordination to the Rights of Third Party Creditors

Intercompany claims are not subject to subordination to the rights of third party creditors, unless otherwise agreed.

14.5 Liability of Parent Entities

Parent entities are not liable for the liabilities and obligations of their direct and indirect subsidiaries, other than by agreement.

14.6 Duties of Parent Companies

A parent company owner of a financially troubled or insolvent subsidiary company does not owe any duties to its subsidiary or the subsidiary's creditors, other than by agreement.

14.7 Ability of Parent Company to Retain Ownership/Control of Subsidiaries

A parent company owner of an insolvent company retains ownership of its insolvent subsidiary during a restructuring or insolvency process; however, in statutory proceedings the owners do not retain control through their ownership as it is the court-appointed trustee/administrator who handles the proceedings and has all legal powers over the debtor.

15. Trading Debt and Debt Securities

15.1 Limitations on Non-banks or Foreign Institutions

In general, there are no limitations on non-banks or (other) foreign institutions holding loans or bonds. However, an authorisation (licence) is required if an institution provides financing to companies on a professional basis as part of its business.

15.2 Debt Trading Practices

The use of standard/customary primary debt documentation is common in Norway. For syndicated loans, the LMA documentation is widely applied, either in full or in a simpler form adapted to Nordic contract law. In relation to bonds, Nordic Trustee – the region's largest provider of trustee services acting as trustee for investors in interest bearing securities etc – has issued standard contracts regulating the rights and duties of the issuer, the bond holders and the trustee.

Under Norwegian law, debt may in general be transferred without consent by the debtor. Norwegian law operates with one single legal concept of transfer/assignment of debt, and does not operate with the English legal concept of novation.

Bonds are tradeable securities under Norwegian law, and must be registered in Verdipapirsentralen, the Norwegian securities register. Thus, bonds are freely tradeable in a manner similar to shares in public limited companies. In Norway, bonds may be listed and traded on regulated or non-regulated markets, with the Oslo Stock Exchange ("OSE") and Nordic ABM (a non-regulated bond market organised by OSE) as the main Norwegian markets.

A syndicated loan may be secured by various types of security that are held by a security agent, in which case the debt may – subject to any inter-creditor agreement regulation – be traded without affecting the established security. The same applies for bonds, where the trustee operates as a security agent regardless of changes of ownership of the bonds.

Upon the sale of a debt provided by a creditor who is also holding all security for that debt, under Norwegian law the debt trading contract will typically facilitate the new owner/creditor's claim to all rights under the security interest securing that debt.

Unless otherwise agreed with a professional party, any third party guaranteeing the debt shall be notified of the change of creditor if the credit was issued by a financial institution; see Section 58 of the Norwegian Financial Contracts Act.

15.3 Loan Market Guidelines

Loan market guidelines on transparency and the use of information do not generally apply to the trading of private debt in Norway. Furthermore, Norwegian law does not provide regulation aimed at ensuring equal information is given to all interested parties in private debt trading processes, except for the rules that generally apply, such as fair treatment of contract parties and unfair contract terms, competition law, requirements for listed companies and companies that have issued listed bonds, including rules on insider trading, rules on tort and criminal liability for fraud, etc. Thus, loan market guidelines do not have any legal or quasi-legal effect as a result of being enforced by regulators.

15.4 Transfer Prohibition

Loan agreements governed by Norwegian law have traditionally facilitated the transfer of debt without the need for prior consent from the borrower; alternatively, consent from the borrower may not be unreasonably withheld. However, there seems to be an increasing trend towards restricting a creditor's right to transfer loans, inter alia by requiring consent from the borrower (unless an event of default has occurred).

15.5 Navigating Transfer Restrictions

Norwegian courts will generally look to pierce through and set aside structures that appear to be set up for the purpose of navigating around a legal restriction.

16. The Importance of Valuations in the Restructuring & Insolvency Process

16.1 Role of Valuations in the Restructuring and Insolvency Market

Security holders and other stakeholders often require valuations and economic assessments to be able to assess their

position and the chances of a successful out-of-court restructuring plan. In judicial debt restructuring processes, valuations as well as an exhaustive list of the debtor's assets and obligations are required, whilst the trustee decides whether or not formal valuations will be made in winding-up proceedings.

16.2 Initiating Valuation

In judicial debt restructuring processes, the debt restructuring committee will value the assets and record them in an exhaustive list, in co-operation with any debt-restructuring

auditor. In winding-up proceedings, the trustee will initiate valuations if it is found to be necessary.

16.3 Jurisprudence Related to Valuations

Valuation jurisprudence in a restructuring and insolvency context is not very developed under Norwegian law, and is mainly limited to what is described under **7.1 Types of Statutory Voluntary and Involuntary Insolvency and Liquidation Proceedings** and **7.2 Distressed Disposals as Part of Insolvency/Liquidation Proceedings**.

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