



**INSOL**  
INTERNATIONAL



**WORLD BANK GROUP**

# Judicial Insolvency Programme

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# INSOL INTERNATIONAL AND WORLD BANK GROUP JUDICIAL INSOLVENCY PROGRAMME

## **Introduction**

INSOL International (INSOL) and the World Bank Group (WBG) have developed the Judicial Insolvency Programme (JIP) to assist with the capacity-building of judges, primarily of emerging markets and developing economies (EMDEs), by accessing the institutions' existing networks with the judiciaries of many nations as well as their global comparative expertise in insolvency systems. The focus of the training is on insolvency and restructuring law through a particular lens of court procedure and judicial analysis in this field.

## **To whom will the JIP be made available?**

1. Primarily judges of EMDEs who are required to deal with insolvency and restructuring issues, either as part of a specialised court or a court of general jurisdiction;
2. The training will be delivered as a result of a formal request from the relevant part of the administration of the country; typically, the Chief Justice in conjunction with the Ministry of Justice,<sup>1</sup> as encapsulated in an MoU with INSOL or as part of a program with the WBG;
3. The capacity-building of judges of different levels of seniority can be addressed appropriately where necessary<sup>2</sup>;
4. While most capacity-building will be delivered to the judges of a single jurisdiction, there may be circumstances where it is appropriate to combine the capacity-building of judges with jurisdictions that have similar systems;
5. While initially groups of judges will be trained, the desired result is to introduce systems that provide perpetuity by training the trainers.

## **What benefits are expected to result from the JIP?**

The potential benefits include: -

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<sup>1</sup> It is not proposed to supply training to insolvency or bar associations other than through appropriate governmental connections.

<sup>2</sup> Treating senior judges as advisors or moderators rather than trainees, for example.

1. Improving familiarity with the procedures and practices that arise in domestic insolvency and restructuring cases, thereby increasing the competence of judges dealing with such cases as well as the promotion of more uniform deduction in decision-making;
2. Strengthening efficient court practices and systems, supporting the rule of law;
3. Helping increase the confidence of debtors, creditors and other affected parties in the court's handling of insolvency applications, resulting in greater use of the insolvency law and a commensurate reduction in "self-help" remedies;
4. Encouraging the reduction in "zombie" businesses and NPLs, which burden the commercial banks;
5. Promoting confidence in the insolvency system of a state on the part of the international financial community, resulting in increased access to inbound credit, investment and capital;
6. Encouraging the number of viable businesses that can be rehabilitated by in court and out of court procedures<sup>3</sup>.

### **What is the scope of capacity-building offered?**

1. The training covers a range of topics from basic insolvency law and practice; the role of the judge and other parties; case management; the various stages of the insolvency process in court; domestic insolvency procedures (typically reorganization and liquidation); and can include cross-border insolvencies, insolvent groups of entities and financial institutions, depending on the requirements of the state;
2. It includes basic training on subjects such as factors determining solvency and basic financial and accounting concepts, such as viability and capital adequacy;
3. The capacity-building is delivered by on-line and taught components (see below). The online modules are based on generally accepted international best practice. The taught module is based on the respective country's laws and practices;
4. The syllabus of the taught module is agreed with the state prior to the training;
5. The scope and method of the training can be adapted to accommodate the length of

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<sup>3</sup> Evidence suggests that out of court procedures flourish when court procedures deliver certainty of outcome.

time that judges can be released from court duties for training - we seek to ensure that the content of any training is as effective as possible given the constraints on the duration of the training and on the funding available to provide it

### **What methods will be used?**

The capacity-building will comprise a combination of distance and classroom tuition;

1. The distance learning takes the form of a self-paced eLearning course focusing on best practices and principles of insolvency law, which provides a general overview of insolvency law and sensitization to key terminology and concepts.
2. Taught modules on the domestic insolvency regime of the respective jurisdiction will be delivered by sitting and retired judges, leading insolvency practitioners and the judiciaries of relevant jurisdictions. The taught modules will typically be given in person, although if circumstances do not permit travel, they can also be delivered virtually as agreed in advance with the institutions. The eLearning course must be completed prior to the second module. The reason for this is that the training is designed to be participative and without this background knowledge, it is likely that training to other judges will be impaired. Therefore, only judges who have completed the eLearning in 1 are eligible to attend the taught modules.

### **Where will training be undertaken?**

Taught modules will be delivered in a central location for air-travel in the respective country with accommodation provided by the country's own resources for all participants. The respective state is responsible for all of the costs of the judges attending the training.<sup>4</sup> Multi-location training is only available in exceptional circumstances due to the constraints in speaker availability.

### **What resources do we have to deliver the college?**

INSOL and the WBG can call upon the following resources: –

1. Senior members of the judiciary in civil law, common law and other legal systems;

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<sup>4</sup> A different arrangement might be put in place if the World Bank Group has an active country project in the respective jurisdiction and is able to provide funding.

2. Experts in both insolvency law and other court procedures that would typically form the bases of applications to court;
3. All trainers will have a basic familiarity with your primary insolvency legislation;
4. Academics fluent in legal and juridical aspects of insolvency;
5. Global standard-setting institutions and related resources including the WBG and UNCITRAL.

### **How will you ensure the JIP is sustainable?**

While the initial objective is to train the greatest number of judges dealing with insolvency matters in your state, the long-term objective is that sustainability is built into every training programme from the outset.

Such continuation of training will most probably be delivered by local resources, which may include senior judges and academic resources including judicial academies. Where there is an existing training establishment, we would seek to include relevant insolvency training in annual, introductory and refresher courses. Their early involvement in training proposals could avoid the risk that continuity trainers are over-looked at the initial training stage.

### **INSOL's track record with the judiciary**

INSOL's activities with the judiciary include the following: -

1. Multinational Judicial Colloquium – 12 colloquia have been held biennially, initially jointly with UNCITRAL and then also in conjunction with the World Bank;
2. Attendance and participation by many senior judges in the INSOL congresses and conferences;
3. Regional and specialist judicial round tables – in conjunction with the WBG and with UNCITRAL;
4. We make material available to judges:
  - a. In conjunction with the Colloquia
  - b. on the INSOL web site
  - c. in published reports of the Colloquia for sharing with other judges who did not attend

5. We enable judges who attend the judicial colloquiums to join INSOL at beneficial rates and to attend the INSOL conferences without charge

## **World Bank Group's track record with the judiciary**

The Insolvency & Debt Resolution Team of the World Bank Group provides extensive technical assistance to EMDEs to strengthen their insolvency regimes in line with best practices and the World Bank Principles for Effective Insolvency and Creditor/Debtor Regimes (ICR Principles). A key component of this work is assisting with developing the institutional infrastructure of a country, including assisting in the capacity-building of domestic judges, promoting efficient case management systems, encouraging specialization in insolvency law and developing alternative dispute resolution systems. The team has experience working in all regions of the world on insolvency reform, and accordingly has an extensive network of judges and deep experience of institutional development as promoted by the ICR Principles. They also are able to facilitate a strong capacity-building program through sustained and in-depth dialogues with the relevant Ministry of Justice and domestic Judicial Training College in the respective jurisdiction. The WBG partners with INSOL International in the annual Multinational Judicial Colloquium and regional round tables.

## **Host country's obligations**

It is important that all parties have a full understanding of their commitments and these will be embodied in a memorandum of understanding prior to the training being organised.

INSOL and the WBG will provide:-

1. The on-line elements of the Judicial Insolvency Program in good time prior to the taught component;
2. The foreign trainers and pay their related travel and accommodation costs; and
3. Electronic copies of the training syllabus and additional materials that the judges will require.

The host country's principal obligations will be: -

1. To select and arrange for an agreed minimum number of judges to undergo both the online and taught modules of the training. You will impress upon those attending the need to complete the elearning course prior to attending the taught component. You will provide the names and contact details of the judges to be trained so that we may communicate with them directly;
2. To pay for the travel and accommodation costs of the judges and any other local speakers you wish to include;<sup>5</sup>
3. To provide suitable training resources, materials and accommodation for the training;
4. To provide refreshments for the taught sessions and if required, audio-visual equipment and any translation from English language required by delegates.
5. Such other costs as agreed with the administration office of INSOL.

## **Further information**

Further information regarding any of the matters in this brochure may be obtained from:

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<sup>5</sup> A different arrangement might be in put in place if the World Bank Group has an active country project in the respective jurisdiction and is able to provide funding.