



no.1  
2010

# Business insolvency worldwide

The crisis has not ended, with still high insolvencies

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# Insolvency Outlook



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## Editorial

## Where are we going?


‘Where are we going?’ was the name of the first public exposition – held at Venice’s Palazzo Grassi – by the Pinault foundation of contemporary art. Its name was inspired by Damien Hirst’s 2004 work entitled *Where Are We Going? Where Do We Come From? Is There a Reason?* The existential question asked by Hirst could also be posed by the euro zone – that ideal monetary union, which, for some weeks now, has been experiencing the severest crisis in its short history – a crisis that has raised tensions across the majority of financial markets. This is just as much a political crisis as an economic one, with unilateral declarations by some members of government prevailing over the coordinated statements by heads of state. It is also a crisis of nerve – one in which the threat of even one single member state abandoning the euro throws doubt over the solidity of the entire edifice. And it is perhaps even an historical crisis, given that – despite official denials – it seems that some governments – founding members of the euro – may for the first time be considering the possibility of taking a step backwards – a first such move in the long process of European integration that began in 1950 with the European Coal and Steel Community. What is happening? It all looks to have started with Greece. Or so it seems. Several years of lying about the real state of its public finances, a particularly unbalanced productive structure (essentially based on agriculture, construction and tourism), and a few disgraceful populist exchanges between the Greek and German presses seem to have globally raised investor anxieties over the possibility of sovereign default by a euro zone member state. Despite an (admittedly tardy) EU announcement of an aid package for this small nation at the start of May, and then especially the IMF and EU announcement of a USD 750bn emergency support package for the euro (agreed on the night of 9-10 May), by the end of the month the markets’ nerves remained jittery. The reason: Greece is not the problem. Anyway, how could such a small economy threaten the existence of the gigantic euro zone? What really worries the world’s investors is the euro zone’s risk of divorce by mutual consent. The agreement between France and Germany to create the euro zone nearly 20 years ago was almost mad: to create a joint currency – an unheard of national gamble, and a strong political statement. But this would be under two conditions: first that there would never be any inflation (the condition demanded by Germany, which had paid dearly for the privilege of knowing what it was talking about), and, second, that there would never be any savage trade wars (demanded by France). In a certain fashion, since the start of millennium, each partner has failed to respect the other’s wishes. For its part, France refused to take seriously the Maastricht Treaty (manipulated and reviled by the highest figures in government) and the independence of the European Central Bank, which both countries had adopted to prevent countries from unfairly using the shelter of monetary union to increase their deficits unsustainably, which would undermine levels of confidence in the euro on the part of economic agents. Germany, for its part, opted to base its macroeconomic growth on price competitiveness, grabbing market share from France – its main trading partner – in the very heart of the euro zone. As is often the case in any crisis involving old married couples, there are rights and wrongs on both sides. Even so, mutual irritations, revisited grudges and continued latent prejudices end up becoming dangerous. The longer they persist, the more the rest of the world will be right to ask where we Europeans are heading. Our responsibility is to put an end to this questioning without delay. To paraphrase Helmut Kohl, we need to reaffirm that we wish for neither a French Europe, nor a German Europe: we want a European France and Germany.

## Expected change in insolvencies

Annual change in %

	2010	2009
Greece	25%	16%
Poland	16%	57%
Czech Republic	16%	36%
Italy	14%	29%
Switzerland	14%	24%
Spain	10%	97%
Ireland	9%	82%
Russia	7%	11%
Belgium	5%	11%
Denmark	5%	54%
Portugal	5%	29%
Austria	5%	9%
Hungary	3%	24%
France	2%	12%
Luxembourg	2%	20%
Germany	1%	12%
Norway	-2%	38%
<b>Global Insolvency Index</b>	<b>-3%</b>	<b>29%</b>
Netherlands	-3%	73%
Finland	-4%	30%
Slovak Republic	-4%	35%
Latvia	-5%	67%
Australia	-5%	3%
Singapore	-6%	2%
Japan	-8%	-1%
Lithuania	-8%	92%
China	-8%	-2%
Estonia	-8%	149%
Canada	-8%	-12%
UK	-9%	17%
Sweden	-9%	21%
South Korea	-10%	-27%
USA	-10%	40%
Hong Kong	-11%	22%
Brazil	-18%	6%
Taiwan	-30%	-58%

Sources: national figures, Euler Hermes forecasts



## Overview

# The crisis has not ended, with still high insolvencies

### 2009: acceleration to record levels of the Global Insolvency Index (+29%)

The Euler Hermes Global Insolvency Index (GII), which reflects the change in business insolvencies across the globe (see 'Our Methodology' at the bottom of the page), posted two records for 2009 – both for the second year running: one for the highest volume of insolvencies in the series, and the other for its unprecedented 29% annual acceleration. Before this, the outbreak of the economic and financial crisis in H2 2008 had already abruptly and massively helped drive up insolvencies for 2008 (+28% on revised figures, after a change in the basis year and the integration of figures for Russia and Australia), against an outlook already unfavourable after a first half of 2008 marked by a slowdown in the world economy and an explosion in commodity prices. The further contraction of world GDP in Q1 2009 – a record annualised 6.5% drop against the previous quarter, which had itself posted a record 5.2% drop – only exacerbated the deterioration in business financial conditions and, in the end, amplified the surge in business insolvencies. The various support measures granted in different countries to help businesses (tax cuts, sectoral assistance, etc.) and the recovery in the world economy emerging in H2 2009 – but still modest outside Asia Pacific and, to a lesser degree, the United States – have only managed to limit the scale of business insolvencies. In the end, the total number of insolvencies for 2009 was the biggest for 15 years in a number of countries (the United States, United Kingdom, France and Finland) and even more unprecedented in a number of others, including Spain, Netherlands, Belgium, Switzerland, Austria, Denmark, Ireland, Portugal and the Baltic countries.

### 2010-2011 outlook: mixed fortunes, but still a high level of insolvencies worldwide

Looking ahead to 2011, the continued improvement in the world economic situation, even at a more modest pace than seen during the technical recovery phase, should overall bring a fall in the volume of business bankruptcies. This overall trend, however, promises to be a modest one (-4% on average over 2010-2011), as it is likely to occur in a manner as varied and fragile as the economic recoveries occurring in each individual country. Thus, for 2010, a fall in insolvencies is generally expected in Asia (-9% on our Asia Pacific regional index) and in the US (-10%, after two years of strong increase). But we risk seeing a further increase in the number of insolvencies in Europe – particularly in the south (Spain, Greece, and Portugal), but not only there (Germany, France, Austria, Ireland and others). In these circumstances, the fall in the bankruptcy trend should become more evident only in 2011. ■ ML

### Some explanations...

In very many countries, there is a close correlation between the business cycle and insolvency figures. Generally, it takes GDP growth of 2% to 3% to stem the rise in insolvencies, and there is a very high elasticity of insolvencies to growth. A GDP growth reduction of 1 percentage point implies a 5% to 10% increase in insolvencies. In the second half of 2008, however, these general approximations, seen in practice from the start of the 1990s, were significantly exceeded: on top of the normal shock resulting from the economic cycle came the abrupt addition of exceptional factors directly stemming from the nature and impact of the global crisis. Indeed, the financial constraints now affecting businesses from summer 2008 onwards are behind half of the rise in insolvencies posted that year. But in 2009, it was in fact the record collapse in economic growth, due to the collapse in demand, that explains the bulk of the rise in insolvencies, which proceeded with exceptional ferocity (see opposite, and the country analyses on pages 6 through 24).

Over the long term, different countries have enjoyed very different average rates of growth, and this is reflected in diverging long-term insolvency trends, at least through 2007. Besides being affected by cyclical fluctuations, business insolvency figures can experience large variations due to changes in the provisions governing new business creations (because of the higher insolvency risk for start-ups) and, even more, due to changes in laws governing insolvency procedures. As in Slovakia in 2005, the change in US bankruptcy legislation in October 2005 triggered a wave of anticipatory insolvencies in that country, followed by a sharp fall in insolvencies in the first quarter of 2006, resulting in marked volatility in the annual US figures for 2005, 2006 and 2007.

## Our methodology

► **The concept of business insolvency varies from one country to another, making it hard to give international comparisons.** In the following pages, we show the definitions used in each country. The disparities between countries are for two main reasons. First, official insolvency procedures are not of equal importance everywhere. In some countries, amicable arrangements predominate (for example, in Spain and Italy), and the figures for company insolvencies are quite low, thus understating the real picture for business insolvencies. Second, in some cases, individual entrepreneurs are included in the figures for business insolvencies. In other cases, however, they are included in the figures for personal bankruptcies (for example, in the US), with no distinguishing between purely personal bankruptcies and sole trader bankruptcies. In the latter cases, the number of business insolvencies is significantly understated. Apart from this, for each country we use the definition of a business that is used in its insolvency demographics for calculating an insolvency rate (see *Statistical annex*, p. 29). Thus, the number of businesses used for the US represents solely companies, and does not take account of individual entrepreneurs,

estimated to total around 17 million. However, for most countries the number of businesses and the number of insolvencies include the figures for individual entrepreneurs. Note also that the number of businesses does not directly depend on the size of a country: Japan, for example, has more businesses than the US, although it has less than half its population and GDP.

► **To overcome the heterogeneous nature of national statistics and circumstances, we employ the change in insolvencies over time rather than their absolute numbers.** For each country, we have calculated an insolvency index, using a basis of 2000=100. We have then constructed our Global Insolvency Index (GII), which is the weighted sum of the national indices. Each country is weighted according to its share of the total GDP (at current exchange rates) of the countries included in our study, which accounts for more than 85% of world GDP at current exchange rates for 2008. ■

## Global insolvency index

(Annual change)

Index 100 = 2000	% of world GDP (*)	% of Global Insolvency Index (*)	2008	2009	2010	2011
<b>Global Insolvency Index</b>	<b>86.1</b>	<b>100.0</b>	<b>28%</b>	<b>29%</b>	<b>-3%</b>	<b>-5%</b>
Americas index	29.9	34.7	48%	37%	-10%	-10%
Asia Pacific index	20.6	23.9	5%	-8%	-9%	-2%
Northern Europe index	15.0	17.4	11%	33%	-1%	-4%
Mediterranean & African index	7.8	9.1	106%	76%	11%	0%
Euro zone index	23.2	26.9	34%	44%	6%	-3%

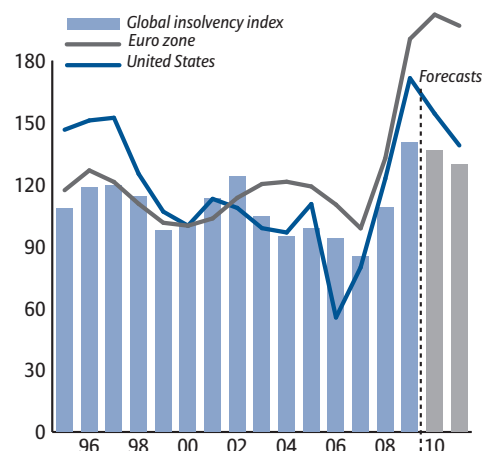
Sources: national figures, Euler Hermes calculations and forecasts, Index 2000 = 100

(\*) GDP 2008 weighting at current exchange rates

Forecasts

## Global Insolvency Index

Basis 2000 = 100



Sources: national figures, Euler Hermes forecasts

## Statistics, by country

	% of world GDP (*)	% of Global Insolvency Index (*)	2009 Total	2009 % change	Forecasts 2010	Forecasts 2011
USA	24.6	28.5	60,837	40%	-10%	-10%
Japan	8.5	9.8	15,480	-1%	-8%	-1%
China	7.5	8.7	4,448	-2%	-8%	0%
Germany	6.3	7.3	32,687	12%	1%	-5%
France	4.9	5.7	64,661	12%	2%	-5%
UK	4.6	5.3	35,185	17%	-9%	-5%
Italy	4.0	4.6	9,644	29%	14%	0%
Russia	2.9	3.4	15,473	11%	7%	9%
Spain	2.8	3.2	4,984	97%	10%	0%
Brazil	2.7	3.2	2,371	6%	-18%	-5%
Canada	2.6	3.0	5,420	-12%	-8%	-6%
Australia	1.7	2.0	14,580	3%	-5%	-5%
South Korea	1.6	1.9	1,998	-27%	-10%	3%
Netherlands	1.5	1.8	8,040	73%	-3%	-8%
Poland	0.9	1.1	673	57%	16%	4%
Belgium	0.9	1.0	9,421	11%	5%	-5%
Switzerland	0.8	1.0	5,215	24%	14%	-5%
Sweden	0.8	1.0	7,638	21%	-9%	-12%
Norway	0.8	0.9	5,013	38%	-2%	-5%
Austria	0.7	0.8	6,902	9%	5%	-2%
Taiwan	0.7	0.8	341	-58%	-30%	-10%
Greece	0.6	0.7	650	16%	25%	10%
Denmark	0.6	0.7	5,710	54%	5%	-8%
Finland	0.5	0.5	3,803	30%	-4%	-8%
Ireland	0.5	0.5	1,406	82%	9%	-8%
Portugal	0.4	0.5	3,815	29%	5%	-3%
Czech Republic	0.4	0.4	1,510	36%	16%	9%
Hong Kong	0.4	0.4	573	22%	-11%	-6%
Singapore	0.3	0.4	135	2%	-6%	0%
Hungary	0.3	0.3	14,636	24%	3%	-2%
Slovak Republic	0.2	0.2	784	35%	-4%	-13%
Luxembourg	0.1	0.1	698	20%	2%	-6%
Lithuania	0.1	0.1	1,842	92%	-8%	-12%
Latvia	0.1	0.1	2,149	67%	-5%	-10%
Estonia	0.0	0.0	1,055	149%	-8%	-12%

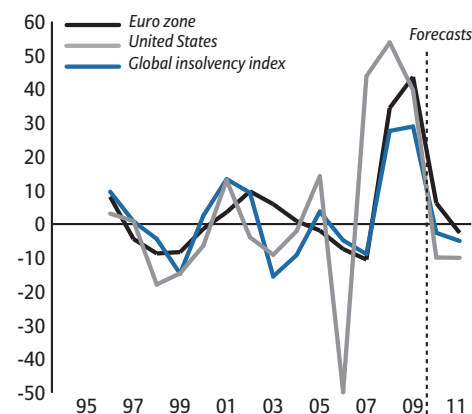
Sources: national figures, Euler Hermes forecasts

(\*) GDP 2008 weighting at current exchange rates

Forecasts

## Global Insolvency Index

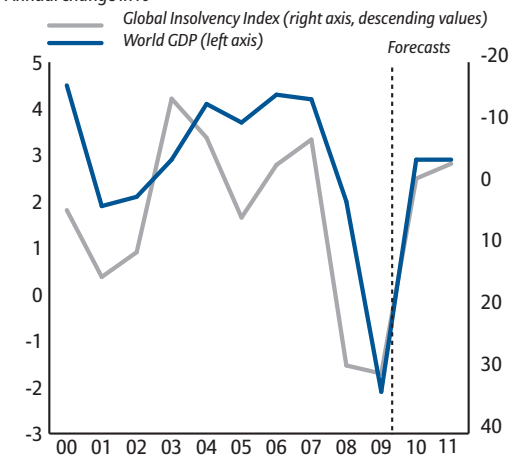
Annual change in %



Sources: national figures, Euler Hermes calculations and forecasts

## Insolvency and world GDP

Annual change in %



Sources: national figures, Euler Hermes calculations and forecasts



## Americas

# United States: nearly 61,000 insolvencies in 2009

In 2009, the 2.4% contraction in the US economy was accompanied by a further 40% increase in business insolvencies. Serious adjustments made in private sector debt, stocks and manpower helped large companies to return to profits, but SMEs remained in difficulty, still struggling to obtain bank financing. The revival in activity was largely supported by economic recovery measures and accommodating monetary policy. The business climate improved, and business insolvencies, after having risen sharply from one quarter to the next, started to stabilise in Q3 2009 and then fell by 9% in Q4, remaining however at a high level. All in all, for the full year 2009, business insolvencies totalled 60,837 – their highest level since 1993 and three times higher than in 2006. The two procedures most commonly used by businesses have been, in nearly 70% of cases, liquidation under Chapter 7, and, in 22% of cases, reorganisation under protection of Chapter 11. The financial and real estate sectors were in the forefront of the media spotlight (more than 140 banks filed for bankruptcy in 2009), along with the entire auto sector (automakers and component manufacturers alike), which was sorely tested by a profound crisis.

### 2010 outlook: an expected fall in insolvencies

The US economy did improve, however, from the second half of 2009 and is heading towards growth tending towards 3% in 2010, despite continued uncertainties regarding household consumption (unemployment rate, level of debt), construction, as well as residential and commercial real estate. The recovery programme will continue to support growth at least over the first half of this year, but then only the revival in employment will contribute to the increase in household expenditure. The downturn in business insolvencies noted at the end of 2009 should continue in 2010 (-10%) taking the number of cases below 55,000 in 2010 and below 50,000 in 2011. ■ MCS

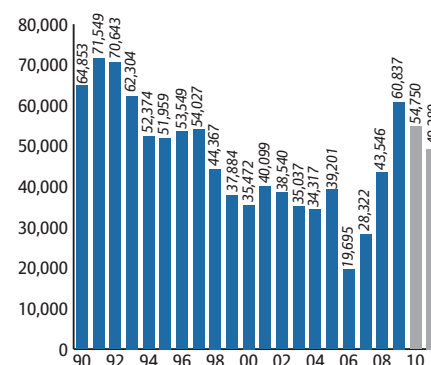
### Business bankruptcies by Chapter, 2009

	Number	Change (*)	Share
Chapter 7	41,962	40%	69%
Chapter 11	13,683	48%	22%
Chapter 12	544	58%	1%
Chapter 13	4,500	18%	7%
<b>Total</b>	<b>60,837</b>	<b>40%</b>	<b>100%</b>

Source: Administrative Office of the US Courts  
(\*): Jan-Dec '08 to Jan-Dec '09

### Insolvencies

number of cases



Sources: Administrative Office of the US Courts, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

The US Census Board counted a total of 22.6 million American businesses in 2001, of which there were 5.7 million firms with payrolls, and 16.9 million (or 75%) with no employees. Each year, an average of 587,000 companies with payrolls are created, generating more than 3.25 million jobs, and 528,000 companies cease trading, with job losses of 3.22 million.

#### Insolvencies

The Administrative Office of the US Courts publishes figures for business and non-business insolvencies each quarter, giving cumulative figures over twelve months, as quarterly figures are often revised. We use only the figures for business bankruptcies, for which the Office provides a breakdown by type of procedure and by state. The annual series gives figures for all procedures (Chapters 7, 11, 12 and 13).

## Major insolvencies

Company	Turnover (millions of euros) *	Activity	Date of insolvency	Number of employees
<b>2009</b>				
General Motors Corporation	100,458	Automotive	06/2009	243,000
Chrysler LLC	32,164	Automotive	04/2009	55,000
Lyondell Chemical Company	19,720	Chemicals	01/2009	7,340
Lear Corporation	9,228	Automotive suppliers	07/2009	80,000
Visteon Corporation	6,490	Automotive suppliers	01/2009	33,500
<b>2010 (end of March)</b>				
Movie Gallery, Inc.	1,765	Publishing, printing and reproduction of recorded media	02/2010	19,082
Mesa Air Group, Inc.	955	Air transport	01/2010	4,113
Affiliated Media, Inc.	763	Publishing, printing and reproduction of recorded media	01/2010	8,700
Xerium Technologies, Inc	459	Manuf. of paper and paper products	03/2010	3,290
Orleans Homebuilders Inc.	420	Construction	03/2010	544

(\*): at 1 euro = USD 1.47 in 2009 and 1.39 in 2010  
Source: Euler Hermes

# Canada: down by another 12%

After having sharply contracted between October 2008 and June 2009, the Canadian economy picked up in the second half of 2009, although, for the full year, GDP fell by 2.6%. Paradoxically, the recession did not bring an increase in insolvency, at least as recorded by the official bankruptcy figures, as many small companies simply cease trading once they become insolvent and escape being taken into account in the official statistics. The number of bankruptcies continued to fall, dropping by 12% to its lowest point for 30 years. At the same time, the number of proposals (offers to creditors to settle debts under conditions other than the existing terms) rose by 2% to 1,309. In 2010, Canada's economy should benefit from the increase in world trade, but it will remain highly dependent on the state of demand from the United States. Good recent indicators strengthen the outlook for a return to GDP growth of more than 3% in 2010, accompanied by a further fall in insolvencies for the year by around 8%. ■ MCS

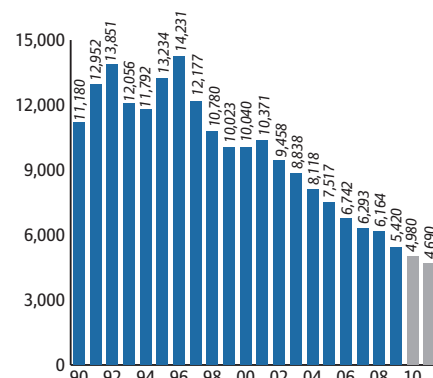
## Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Agriculture	198	-28.5%	3.7%
Industry	637	-3.0%	11.8%
Construction	833	-22.4%	15.4%
Transport & communication	569	-24.5%	10.5%
Retail & wholesale	1,082	-4.5%	20.0%
Financial intermediaries	120	17.6%	2.2%
Real estate	143	8.3%	2.6%
Business services	377	-6.5%	7.0%
Consumer services	105	-4.5%	1.9%
Hotels & restaurants	635	-14.1%	11.7%
Other sectors & services	721	-8.0%	13.3%
<b>Total</b>	<b>5,420</b>	<b>-12.1%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09  
Source: Office of the Superintendent of Bankruptcy

## Insolvencies

number of cases



Source: Office of the Superintendent of Bankruptcy, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

According to the company register of Statistics Canada, there were 2.25 million companies in Canada in 2005. Of these, 47% were with payrolls and 53% undetermined. This latter category includes entities with or without company status that are not registered for salary withholding tax with the Canadian revenue authorities. Their workforce may comprise contract workers, family members or their owners.

#### Insolvencies

The National Statistics Agency has recorded company and individual bankruptcies for ten years, with a breakdown of company bankruptcies by province and type of activity. It also provides figures for the major urban centres, which allows us to get details on every metropolitan region and all the agglomerations monitored. The statistics on major urban centres include data on the subdivisions of Vancouver, Montreal, Toronto and Hamilton. Our series excludes personal bankruptcies.

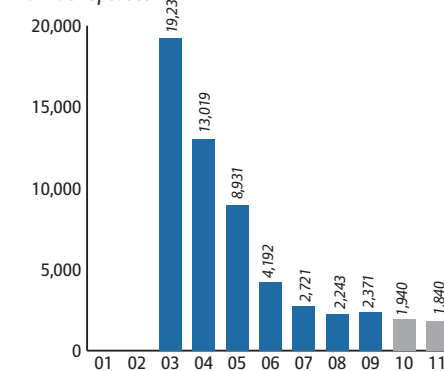
# Brazil: temporary rise

Brazil weathered the shock of the global crisis relatively smoothly, with GDP falling only for two quarters (Q4 2008 and Q1 2009), and with zero GDP growth for the full year 2009, albeit after average growth of 4.7% over 2004-2008. From H2 2009, however, thanks to economic revival measures and the fall in interest rates, the economy had already recovered its dynamism, drawing on strong domestic demand and the rise in commodity prices. Industrial output and retail sales have returned to pre-crisis levels, and the many public and private sector infrastructure investment plans (Phase Two of the Growth Acceleration Program, PAC 2, over the period 2011-2014) ensure a good outlook for both the short and medium terms, with a return to growth of around 5% from 2010, the last year of end of President Lula's mandate (elections are set for October). Insolvencies rose by 6% in 2009, coming for the most part in first half of the year, before slowing in the second half. With the strong revival of activity, the

business situation should strengthen, despite the tightening of monetary policy, and the number of insolvencies should fall by around 18%. ■ MCS

## Insolvencies

number of cases



Sources: Serasa, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

The central Brazilian business registry counted 5.7 million businesses active in 2006, of which 3 million were officially registered entities. Of these latter, 92% had fewer than 5 employees, of which 48% were in retail and wholesale distribution, 20% in business services and 10% in industry.

#### Insolvencies

The company ISI Securities/Serasa publishes figures for court procedures in Brazil. This new series takes into account, from 2003, only bankruptcy petitions (*falências requeridas*), to the exclusion of all other insolvency procedures.

NB: up into 2002, the figures published in Insolvency Outlook were based on the figures for decreed bankruptcies (*falências decretadas*). Because of this fact, figures we publish from May 2009 onwards are not directly comparable with those in previous issues.

## ▶ Asia Pacific

# Japan: insolvencies falling back

Japan narrowly avoided posting a fourth consecutive year of rising business insolvencies in 2009. Admittedly, the abrupt fall in world trade in winter 2008-2009 seriously intensified difficulties for the country's economy, which is highly dependent on external demand, and massively hit businesses – especially the biggest. But insolvency peaked in the first quarter of the year, coinciding with the worst point of the collapse in manufacturing activity (down to monthly levels of the end of 1983) and in profits (at their lowest quarterly levels since the start of the data series in 1985). Insolvencies were up by an annualised figure of more than 12% at the end of March 2009, in particular due to the difficulties in industry, construction and transport/communications. Thereafter the rate of increase gradually eased and then reversed at the very end of the year, in inverse step with the clear revival in economic growth that began during the spring and continued into the last quarter of the year. But the fall in insolvencies from quarter to quarter was nonetheless a modest one, and it allowed only a near-stabilisation in bankruptcies for 2009 overall (-1.1% against 2008), and still at the highest level since 2003 and well above the average of the past 20 years – plus a considerable 6,800 yen in liabilities.

### Outlook: falling, especially in 2010

Japanese economic recovery, which has been confirmed up to Q1 2010, should continue to 2011 but is likely to ease. The renewed dynamism in foreign trade should moderate, in particular with Asian emerging countries, which are the main driver of Japan's recovery. The effects of the country's various stimulus programmes and government aid measures should similarly taper off. Recovery in investments should therefore prove limited and consumer expenditure should only tick over. After an upturn in 2010 (+1.8%, after -5.2% in 2009), GDP is likely to grow only by 0.9% in 2011, i.e., just enough to allow a further improvement on the business insolvency front. In the end, however, the number of bankruptcies may fail to drop below 14,000 cases before 2012, despite falling for the two previous years (-8% in 2010 and -1% in 2011). ■ ML

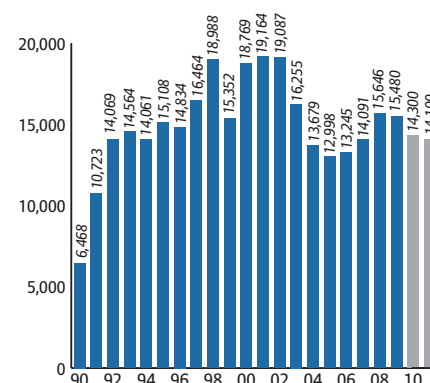
### Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Agriculture	77	-11.5%	0.5%
Manuf. industry	2,619	11.9%	16.9%
Construction	4,087	-8.5%	26.4%
Wholesaling	2,192	-1.5%	14.2%
Retailing	1,693	-8.1%	10.9%
Transport & communication	1,158	6.2%	7.5%
Finance	92	-14.0%	0.6%
Real estate	596	3.7%	3.9%
Other services & others	2,966	1.9%	19.2%
<b>Total</b>	<b>15,480</b>	<b>-1.1%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09  
Source: TSR

### Insolvencies

number of cases



Sources: TSR, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

The Ministry of Internal Affairs and Communications counted 5.7 million privately owned establishments in 2006 (including 2.7 million individual proprietorships and 3 million corporations) including a total of 1.5 million actively trading businesses. More than 70% of these employ fewer than 10 persons. Around 50% have share capital totalling below 10 million yen, and 44% are under 10 years old. Around 10% have share capital in excess of 50 million yen or employ more than 30 persons.

#### Insolvencies

Tokyo Shoko Research (TSR) compiles monthly figures for the totality of business failures. The series that we employ covers businesses with liabilities in excess of 10 million yen that are subject to court-ordered reorganisation plans or liquidations (via the Corporate Reorganisation Law, Civil Rehabilitation Law, Corporate Arrangement under Commercial Law, or Bankruptcy Act), or else subject to private procedures (the suspension of bank transactions or amicable arrangements).

### Major insolvencies

Company	Turnover (millions of euros)*	Activity	Date of insolvency	Number of employees
<b>2009</b>				
Joint Corporation	1,415	Real estate activities	06/2009	916
SFCG Co., Ltd.	1,028	Financial intermediation	04/2009	1,621
Pacific Holdings Inc.	992	Real estate activities	03/2009	351
The Japan General Estate Co., Ltd.	896	Real estate activities	02/2009	584
Toshin Housing Co., LTD.	740	Real estate activities	01/2009	1,265
Azel Corporation	449	Real estate activities	03/2009	419
<b>2010 (end of March)</b>				
Japan Airlines	14,689	Air transport	01/2010	47,170
Willcom Inc.	1,530	Telecommunications	03/2010	1,058
U.F.O. kk	675	Wholesaling of household goods	03/2010	45
GFS kk	67	Wholesaling of household goods	03/2010	30

Source: Euler Hermes  
(\* at 1 euro = JPY 132.7)



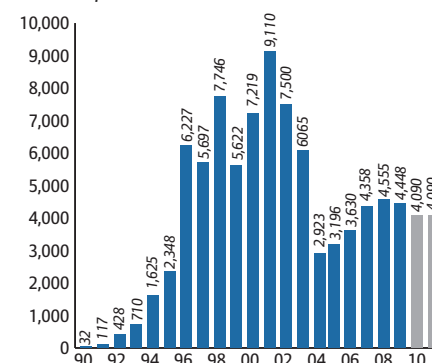
# China: only limited use of court procedures

The Chinese economy quickly overcame the world economic crisis, thanks to its vast stimulus programme, which accounted for 12% of 2009 GDP (and of which 40% is still planned for implementation over 2010) and thanks to record activism on the part of the monetary authorities, which resulted in CNY 9.6tn in new credit (the equivalent of 30% of GDP). China had returned to vigorous growth rates from spring 2009, allowing it to post only a moderate slowing in GDP growth over the year (+8.7%, after +9% in 2008). Forecasts of acceleration over 2010 were then confirmed already in the Q1 of this year (+11.9% yr/yr), reviving fears of both overheating in several sectors (in particular the real estate market) and a surge in bad debts. However, the official bankruptcy figures should remain modest, as businesses turning to official procedures in cases of insolvency are limited for the most part to state-owned businesses or very well-known enterprises. The multiplication of 'sudden closures' of businesses, to the detriment of suppliers and employ-

ees, during the abrupt fall in foreign trade over winter 2008-2009, in particular in the toys, textiles, clothing and footwear sectors, took place outside of any genuine statistical monitoring, and this did nothing to prevent the official figures for 2009 posting their first decline after five years on the rise. ■ ML

## Insolvencies

number of cases



Sources: China Court, Sinotrust, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

China has probably nearly 35 million businesses, of which around 29 million are small (declared or undeclared) individually-owned businesses (of which 85% are in the tertiary sector), and some 5 million businesses in the sense of 'legal person units'. Among the latter, there are 346,000 entities which are under majority public ownership (of the Chinese state or collectivities), and nearly 3.6 million businesses whose capital is held by private Chinese or foreign owners. There are around 300,000 SMEs with turnover in excess of 50 million yuan.

#### Insolvencies

Our series draws on two sources: on the one hand, official figures as published (rarely and only partially) by China Court or as estimated from cross-checking official figures taken from the media and various economic and legal works covering insolvencies in China, and, on the other hand, figures published monthly by Sinotrust, on the basis of bankruptcy announcements published by the courts.

# South Korea: rapid recovery has limited insolvencies

The number of business insolvencies in South Korea rocketed in the second half of 2008 (+31% against H1), during which period GDP fell by a massive -2.2% against the previous half year, in the worst downturn since the Asian crisis. However, the economy was fast to recover, thanks to large-scale monetary and budgetary policy measures, as well as a government support package totalling around 8% of 2009 GDP, and, especially, a revival in exports, fuelled by Asian demand and a significant devaluation in the Korean won. In the end, levels of activity were quickly restored and then even exceeded pre-crisis levels (e.g., in industrial output, residential building permits, retail sales, exports, etc.). All this has helped to gradually reduce the number of business insolvencies. This trend should, however ease by 2011, due to an expected slowing in GDP growth, after the clear 4.5% increase on its way to being posted for 2010 (after 0.2% in 2009). ■ ML

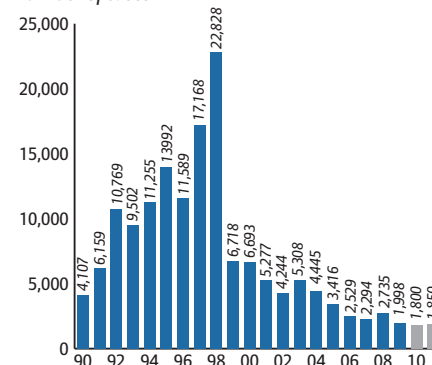
## Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Industry	676	-25.0%	34.4%
Construction	362	-35.5%	21.2%
Services	892	-22.8%	41.2%
Others	68	-41.9%	3.2%
<b>Total</b>	<b>1,998</b>	<b>-26.9%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09  
Source: Central Bank of Korea

## Insolvencies

number of cases



Sources: Bank of Korea, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

Statistics Korea (KOSTAT) counted nearly 3,268,300 registered 'establishments' in 2008 (against just over 3,000,000 in 2000) in the business population, including a number of large conglomerates (*chaebols*) such as Samsung, SK, LG and Hyundai, but also including, for the most part, SMEs, of which some 320,000 are in the manufacturing sector. A total of fewer than 13,500 businesses employ more than 100 persons.

#### Insolvencies

Our series uses figures from the Bank of Korea, which since 1990 has carried out a monthly count of the number of insolvent businesses ('dishonoured companies').

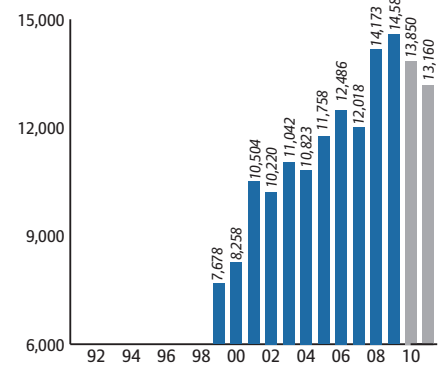
# Australia: record high insolvencies

The Australian economy weathered the world economic and financial crisis fairly well, even posting its nineteenth consecutive year of growth in 2009. However, the one contraction in GDP posted – a Q4 2008 contraction of 0.9% against Q3 – was the biggest for the past thirty years and brought a sharp slowing in annual GDP growth, from 4.7% in 2008 to 1.3% in 2009. This impacted harshly on a large number of businesses, which were soon forced to file for bankruptcy, pushing the total number of business insolvencies to a new record high, after two consecutive years on the rise. Recovery in the economy has nonetheless been rapid, thanks to strong Asian demand, which is fuelling production and exports of commodities in particular, and also thanks to a significant and rapidly implemented recovery programme (5.4% of GDP) and thanks to the robust state of Australia's financial system. This should result in a fall in insolvencies in 2010, even though the rate of decline in the number of cases may be

limited by tighter monetary policy, which has already brought six increases in leading rates since October 2009, and probably by tighter budget policy as well. ■ ML

## Insolvencies

number of cases



Sources: ASIC, Euler Hermes forecasts

## Definition and sources of statistics

### Businesses

The Australian Securities & Investments Commission (ASIC) counted 1.7 million businesses registered in Australia in 2009, an annual average figure continually on the rise since the start of the series in 1999, and well below the latest figure of 1.96 million published by the Australian Bureau of Statistics (ABS) at the end of 2006.

### Insolvencies

Our series uses the data published by the ASIC, which carries out monthly tallies of all 'corporate business' insolvencies in each of the country's six states and two main territories. It excludes bankruptcies of sole traders, who, for their part, are counted by the Insolvency and Trustee Service Australia (ITSA).

# Taiwan: a fall in officially recorded bankruptcies

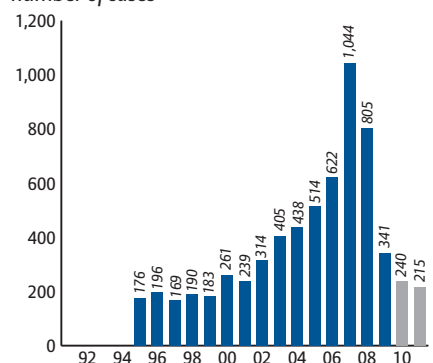
Official bankruptcy judgements rendered in Taiwan, the figures for which are published monthly in the Judicial Yuan of the Republic of China, stabilised overall at a low level all through 2009, after already showing a clear decline in H2 2008. For the full year 2009, the number of cases fell by 58%. This stands in stark contrast with the record collapse in economic activity at the end of 2008 and start of 2009, which resulted from the abrupt dive in exports, which account for two-thirds of GDP, but there is a reason for this. First, the official figures only partially reflect the true picture for business bankruptcies, as a great number of insolvencies do not in practice result in official procedures. Second, the Taiwanese economy quickly returned to growth, from summer 2009, helped by the strong monetary easing begun in September 2008, by a large-scale stimulus package entirely implemented in 2009 (4% of GDP), and by an upturn in exports, particularly significant in the IT and electronics sectors and those exporting to nearby

Asian countries. Of the latter, China is the most important, accounting for 27% of total exports and 14% of Taiwanese GDP. With the outlook for GDP to grow by 6% in 2010 and 4% in 2011, the trend in the official bankruptcy figures is unlikely to reverse, after a new low posted in Q1 2010.

■ ML

## Insolvencies

number of cases



Sources: Judicial Yuan of the Republic of China, Euler Hermes forecasts

## Definition and sources of statistics

### Businesses

The Directorate-General of Budget, Accounts and Statistics counted 1,179,100 'business units' at the end of December 2008, including approximately 50% in commerce, 11% in manufacturing industry, 11% in services (excluding transport-communications and finance), and 7% in construction. But the number of registered companies stood at 577,600 in mid-2009.

### Insolvencies

Our series uses figures from the Judicial Yuan of the Republic of China, which monthly publishes the number of 'petitions presented', i.e., companies having themselves requested or having been the object of a request for a procedure. The series deals with the total number of 'procedures terminated by the District courts'. Note, however, that historically on a small proportion of procedures initiated actually result in a bankruptcy judgement – some 6% to 22%, depending on the year, since 1998.

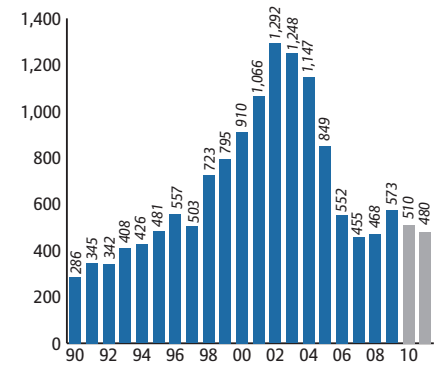
# Hong Kong: recovery is cutting the number of business liquidations

A vital player in Asia, thanks to its stock exchange, its logistical and harbour infrastructure, and its tourism industry, Hong Kong has not been slow to return to growth. Admittedly, activity did contract massively in the wake of the winter 2008-2009 crisis (in particular in Q1 2009, when GDP fell yr/yr by nearly 8%), severely impacting on every pillar of the economy – trade, logistics, financial services, tourism and associated sectors – and abruptly weakening a large number of businesses. But the economy quickly began to revive. Initially, this was due to the support measures of the government’s stimulus package, totalling USD 15.6bn, or 7.4% of GDP in 2009, and due as well to ultra-accommodating monetary policy. Next, in particular, was the rapid and sharp revival in growth in international trade, especially within Asia. Against this backdrop, which improved over successive quarters (with GDP again on rise by 2.4% in Q1 2010), the accelerat-

ing trend in business liquidations seems to have peaked in Q3 2009. Continued economic recovery, with GDP growth of around 4.5% in 2010 (after -2.8% in 2009) and a likely more modest growth figure in 2011, should further limit the number of business insolvencies. ■ ML

## Insolvencies

number of cases



Sources: Official Receiver’s Office & Companies Registry, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

The Companies Registry counted nearly 889,600 businesses at the end of December 2009 (against less than 555,000 in 2003), the total of Local Companies on Register (772,200), Local Companies Incorporated (109,400), and Overseas Companies (7,900). More than 60% of entities are in retail and wholesale commerce, followed by business services (notably including finance, insurance and real estate) at 19%, and consumer services at 12%.

#### Insolvencies

Our series uses data from the Official Receiver’s Office, which has published monthly figures since 1989 for the number of compulsory winding-up orders made.

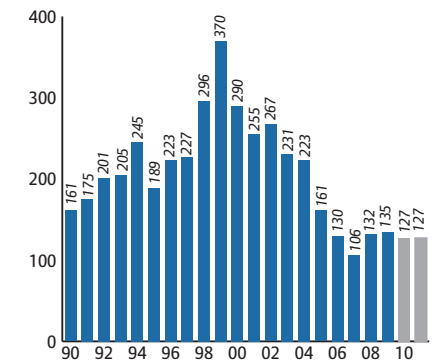
# Singapore: a low volume of business liquidations

Singapore ended 2009 posting a new low in the volume of business liquidations, despite the unprecedented contraction in activity over winter 2008-2009. That downturn for a time fed concerns over the health of a much larger number of companies, as the economy is very narrowly dependent on world growth and trade: first, via its role as a logistics and financial platform for Southeast Asia, second, via its specialisation in electronics and high value added exports sensitive to the economic climate (pharmaceutical, chemical and biomedical products), and third, but to a lesser degree, because of its tourism sector activity. However, the government adopted a massive support plan (USD 13.6bn, or 8% of GDP) and essentially implemented it during the course of the year. Also, Singapore’s trade partners enjoyed a brisk economic revival under the impulse of China (accounting for around 15% of Singapore’s exports). These two factors spurred the country’s exit from recession from Q2 2009. The revival

in activity, which was more than confirmed in Q1 2010 with a record GDP surge of 8.5% over the previous quarter, has eased the constraints on businesses. This should lead to a significant 6% jump in annual average GDP growth in 2010 (after -1.4% in 2009) and then a slowing to 4.5% in 2011, as the effects of the stimulus measures end and with monetary normalisation, which has already begun to counter the inflationary risks and the surge in real estate prices. ■ ML

## Insolvencies

number of cases



Sources: Insolvency and Public Trustee’s Office, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

Figures published in the Yearbook of Statistics Singapore show nearly 245,600 active businesses at the start of 2009, after a sharp increase in 2006-2008, with a greater number of companies (60%) than individually owned businesses (40%), of which 35% were in retail wholesale distribution, 14% in business services, 11% in the finance/real estate component, more than 8% in the category of industry overall, but less than 8% in manufacturing industry.

#### Insolvencies

The Ministry of Justice, via the Insolvency and Public Trustee’s Office, gives annual figures for the number of businesses subject to a company winding-up, and the number of companies that have filed petitions for winding-up. Our series covers declared windings-up only, which historically account for 74% of the total.

## ▶ France

# France: close to record highs

With the French economy contracting by 2.2% in 2009, the business insolvency picture for the year could have been far worse than the 12% increase in court bankruptcy pronouncements posted for the year overall. Undoubtedly, the various support measures targeting businesses, from the end of 2008 and throughout 2009, made it possible for thousands of companies to better or worse weather the crisis. After the strong rise in insolvencies seen to Q3 2009, the trend slowed appreciably in the final quarter of the year, for a final tally of 64,661 judgements, just shy of the record 1993 total (64,814). Nonetheless, the crisis left its marks across every sector of activity and all parts of the country: bankruptcy filings rose by 30% in real estate, and by 15% to 20% in industry, construction and transport. In terms of company size, businesses with between 50 to 100 employees seem to have been the most weakened (with filings up by 59%), whereas the number of procedures involving large businesses (with turnover in excess of 15 million euros) posted a clear deceleration in the second half of 2009, dropping to a yearly tally of 216 cases, more or less similar to the total in 2008.

### 2010 outlook: at best stabilising at a high level

GDP growth is likely to be disappointing in 2010 and 2011, remaining below 2% due to a raft of uncertainties surrounding both domestic and external demand. Business confidence has improved, but order books are struggling to recover. The situation has remained highly delicate for many small companies in the first half of 2010, and it is likely to worsen given the difficulties in sales and in financing. With insolvency figures for the first quarter of 2010 being close to those for Q1 2009, we see the number of procedures in 2010 at best stabilising at an already high level, although the number of insolvencies could continue to rise, although at a more modest rate of between 1% and 5%. **MCS**

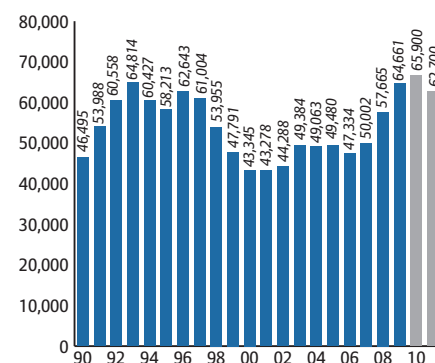
### Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Industry	5,637	16.5%	8.7%
Construction	17,446	14.4%	27.0%
Retail & wholesale	14,126	6.9%	21.8%
Transport	2,071	17.5%	3.2%
Real estate activities	2,536	27.6%	3.9%
Business services	8,419	13.2%	13.0%
Other service activities	3,042	6.1%	4.7%
Hotels and restaurants	6,650	1.5%	10.3%
Others	4,734	27.0%	7.3%
<b>Total</b>	<b>64,661</b>	<b>12.2%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09  
Source: Euler Hermes

### Insolvencies

number of cases



Source: Euler Hermes

### Definition and sources of statistics

#### Businesses

as of January 1, 2007, the number of legal entities listed by INSEE in its Siren system totalled 5.6 million, including 2.9 million businesses with commercial activities in 'Industry, Commerce and Services' (ICS), but excluding around 660,000 businesses in agriculture, fishing and forestry and around 550,000 businesses in financial sectors. Of these 2.9 million ICS businesses, 59.6% have no employees and 34% have 1 to 9 persons on their payrolls.

#### Insolvencies

Euler Hermes SFAC has based its series of insolvency figures on bankruptcy court judgements in France. The series uses the number of insolvency cases of all types opened by the courts as of the date of publication of official journal *Bodacc*, which publishes announcements of these and is used to obtain breakdown figures by major sector and by region. A second series identifies the biggest insolvencies, for entities with turnover in excess of 15 million euros.

### Major insolvencies

Company	Turnover (millions of euros)	Activity	Date of insolvency	Number of employees
<b>2009</b>				
Pôle Keyria (Legris group)	427	Manuf. of office, accounting and computing machinery	10/2009	1,670
Rodriguez-Boat Service group	410	Building and repairing of ships and boats	04/2009	111
Nortel Networks	369	Telecom	05/2009	968
Euro Distribution Alimentaire	252	Wholesaling	03/2009	735
La Source	200	Retailing	07/2009	600
<b>2010 (end of March)</b>				
EM2C group	166	Construction	02/2010	159
Sellfast	86	Wholesaling	01/2010	14
Intergeston	71	Wholesaling	03/2010	nc
Enia France SAS	69	Manufacture of carpet	01/2010	301
Société d'Application Hydraulique Leduc	42	Manuf. of transport equipment	03/2010	412

Source: Euler Hermes

## ► Austria-Germany-Switzerland

# Germany: a surge in large-scale bankruptcies

The German economy returned to growth after spring 2009, helped by a significant recovery in exports, seen especially in the second half of the year. The upturn, however, has not been enough to compensate for the scale of the earlier recession – the biggest of the postwar period – which brought a 4.9% fall in GDP for 2009 overall. Recovery also flagged in Q4 2009 and the start of 2010. In this difficult environment, business insolvencies rose noticeably, ending the year posting a clear 11.6% increase, to 32,687 cases. Manufacturing industry particularly felt the rise in insolvencies (+40.5%), and notably its metal-lurgy, auto and tools segments. Also hit hard were services, retailing/wholesaling, and construction. There was a very notable increase in cases involving large companies (+21% for public and private limited companies), with a lesser increase among SMEs (+3%). This in turn brought a sharp rise in the total number of employees affected (250,800 compared to 121,700 in 2008) and in the total liabilities involved (73 billion euros according to DeStatis, against the previous record of 52 billion euros in 2002).

### 2010 outlook: record insolvencies

The continued recovery in external trade, while limited with respect to Germany's European trade partners, should benefit

the German economy and help to continue its recovery. But this risks being braked by the weak pace of investment and consumption, especially after the tailing off of budgetary stimulus measures. Even so, GDP is expected to grow by 1.5% in 2010 and 1.4% in 2011, and this should be enough to gradually turn the tide in insolvencies. After peaking during the course of 2010, the number of insolvencies should rise by another 1.3% on the full year. But next year the numbers should fall, by 5%, still posting however a total of more than 31,300 insolvencies. ■ RG

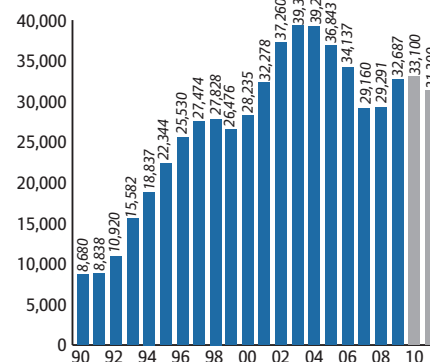
### Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Manuf. industry	3,092	40.5%	9.5%
Construction	5,387	1.5%	16.5%
Retail & wholesale	6,730	9.9%	20.6%
Transport & communications	3,412	20.9%	10.4%
Hotels & restaurants	3,181	-0.3%	9.7%
Real estate	1,233	18.3%	3.8%
Finance & business services	6,783	16.2%	20.8%
Other services	2,664	5.0%	8.2%
Others	205	-11.3%	0.6%
<b>Total</b>	<b>32,687</b>	<b>11.6%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09  
Source: Destatis

### Insolvencies

number of cases



Sources: DeStatis, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

The Federal Statistical Office (DeStatis), in its Statistical Yearbook 2009, counted nearly 3,551,200 entities subject to taxation for 2006, according to a tally that included every entity subject to tax and/or contributions and excluding primary sectors (A and B in the EU's NACE economic activity classification codes). Among these, nearly 62,000 had more than 50 employees (or 2% of businesses) and 181,000 had turnovers of at least EUR 2 million (or 5%).

#### Insolvencies

DeStatis tallies all court-ordered bankruptcies for the country, including those of individual persons, who accounted for more than 60% of the total in 2006-2007. Our series covers all business insolvencies, i.e., those of small businesses, public limited companies and private companies; it excludes insolvencies on the part of sole traders (a category previously included in the series) and on the part of natural persons.

### Major insolvencies

Company	Turnover (millions of euros) *	Activity	Date of insolvency	Number of employees
<b>2009</b>				
Arcandor AG	19,400	Retailing	06/2009	38,000
Qimonda AG	7,010	Manuf. of tubes and other electronic components	01/2009	1,500
Edscha AG	1,108	Manuf. of parts and accessories for motor vehicles and their engines	02/2009	6,800
Plastal GmbH	850	Manuf. of parts and accessories for motor vehicles and their engines	03/2009	2,200
DWW Woolworth Deutschland	750	Retailing	04/2009	11,000
<b>2010 (end of April)</b>				
V.W. Werke Vincenz Wiederholt	95	Casting of metals	03/2010	670
AML Group GmbH	65	Sale of motor vehicles	04/2010	360
Zirn Agrar GmbH	55	Wholesaling	03/2010	160
KONSUM Sachsen Nord eG	31	Wholesaling	04/2010	230
Max Mayer Maschinenbau GmbH	29	Manuf. of machinery and equipment	03/2010	180

Source: Euler Hermes



# Switzerland: insolvencies fuelled by the crisis and by the change in bankruptcy law

The acceleration in business insolvencies, triggered in mid-2008 by the slowdown in activity, was more than confirmed in 2009. Initially this was the result of the global crisis. The collapse in world trade was worsened by the rising levels of the Swiss franc, bringing an abrupt fall in exports (which account for more than 50% of Swiss GDP). On top of this were added the difficulties affecting the country's banking system, another pillar of the economy. Relatively resilient private consumption helped to limit the contractions in activity and employment, but the shockwaves broke against a great many businesses. More than 4,000 businesses had to file for insolvency (+4.5%), but nearly 1,150 were also liquidated under bankruptcy law provisions following judgements of organisational incompetence – a new measure introduced to in 2008 that is likely to fuel the number of bankruptcies in 2010, notwithstanding the expected positive impact of the gradual restoration of GDP growth (around +1.5%, after -1.5% in 2009). ■ ML

## Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Construction	1,171	15.1%	22.5%
Industry	4,589	20.8%	8.8%
Services	2,310	29.2%	44.3%
Retail & wholesale	1,152	22.4%	22.1%
Others	124	29.2%	2.4%
<b>Total</b>	<b>5,215</b>	<b>23.5%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09

Sources: FOSC, Creditreform

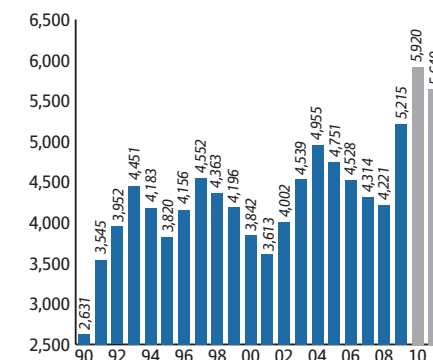
### Definition and sources of statistics

#### Businesses

The Office Fédéral de la Statistique (OFS) counted nearly 299,000 businesses (excluding non-profit businesses) active in Switzerland in 2005, with around a quarter in the secondary sector and the remaining three-quarters in the tertiary sector. One-person businesses accounted for more than 50% of the total, public limited companies 28%, and private limited companies 15%. Nearly 88% of businesses employ less than 10 persons. According to net annual business creation figures from Creditreform, the business population should total more than 350,000 entities.

## Insolvencies

number of cases



Sources: OFS, Euler Hermes forecasts

#### Insolvencies

The OFS publishes figures on declared company and personal bankruptcies (sole traders not listed on the Register of Commerce are included in the latter category). In our series, we use only data on the business bankruptcies published in the Feuille Officielle Suisse du Commerce (FOSC), which covers nearly half of all insolvencies and which are periodically reported by Creditreform in a more detailed manner by sector, by region or by legal form.

# Austria: insolvencies at a peak

Austria is particularly dependent on foreign trade, and notably on domestic demand in Germany, which takes nearly a third of its exports. The global crisis produced a major contraction in the country's economy. In the end, GDP dropped by 3.5% for the full year 2009. Austria emerged from recession in the second half of the year (+0.4% over Q1), but this compensated only very partially for the fall in GDP seen over the four previous quarters. In this difficult context, the number of business insolvencies rose quickly, spreading to all sectors and rising to a near-record annual total, alongside a massive 33% increase in liabilities to 4 billion euros, according to credit ratings agency KSV. Continued recovery in the economy will help reverse the trend, but this could prove too little – with growth of only around 1.5% in 2010-2011 – to allow any significant fall in the number of insolvencies before 2011. ■ ML

## Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Construction	1,097	3.5%	15.9%
Industry	1,108	19.7%	16.1%
Transport & communications	769	10.2%	11.1%
Hotels & restaurants	945	0.0%	13.7%
Other services	1,488	15.1%	21.6%
Others	1,495	7.3%	21.7%
<b>Total</b>	<b>6,902</b>	<b>9.3%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09

Source: KSV

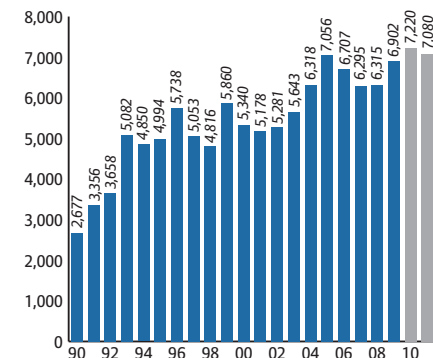
### Definition and sources of statistics

#### Businesses

Statistik Austria counted 294,000 businesses in 2007, (excluding education, health and social services). Business services accounted for 30% of the total, ahead of retailing and wholesaling (27%), the hotel-restaurant sector (17%), industry (10%), construction (9%) and transport (4%). Nearly 87% have fewer than 10 employees. Some 2% have more than 50 employees, but account for more than 60% of the cumulative turnover of all Austrian businesses, estimated at EUR 614bn for 2007.

## Insolvencies

number of cases



Sources: KSV, Euler Hermes forecasts

#### Insolvencies

Our series uses data from Kreditschutzverband 1870 (KSV), which gives quarterly figures for the totality of business bankruptcies pronounced, by sector and by region.

# ► Mediterranean and Africa

## Italy: a sharp rise in bankruptcies and restructuring procedures

After a 1.3% fall in GDP for 2008, the year 2009 ended with the economy contracting by another 5.1%, including a 0.1% fall in the last quarter. The financial position of businesses remains vulnerable, on the heels of two years of recession and eroding competitiveness. Payment delays have lengthened, and bank loans to businesses fell by 3% in 2009. The fall in activity and tighter credit conditions have impacted on business demographics: new business creations (and notably artisan businesses) are down for the third year running, and the numbers of businesses either ceasing to trade or becoming bankrupt remain high. Italian business information group Cerved estimated a total of some 9,644 bankruptcy cases in 2009, up by 28.5% from 2008, or a 59% increase against the latest official ISTAT figure (stopping at 2007) of 6,062. The number of creditor arrangements (*concordati preventivi*) prior to declaration of bankruptcy was also up sharply, rising by 62% against 2008. The increase in insolvency was significant, by region, in Italy's northeast (+26%) and northwest (+33%), and, by sector, in construction (+33%) and in industry (+26%).

### 2010 outlook: further increase

The improvement in industrial output indicators for several months have been encouraging, and exports should lend sup-

port to the economy despite weak competitiveness, but domestic demand remains hampered by growth in unemployment, up to this point contained by measures to support jobs. Certain fiscal stimuli (auto scrapage measures) have ended, and the government has just announced an austerity plan for 25bn euros in public expenditure cuts over 2011 and 2012. The Italian economy is slowly improving, but GDP growth will remain modest at below 1% in 2010 and 2011. Accordingly, insolvencies should continue to rise (by 15%, or even 18% if we include concordato procedures), with the number of bankruptcies (around 11,000) likely to approach the average observed over the period from 2000 to 2006 before the reform of Italian bankruptcy law. ■ MCS

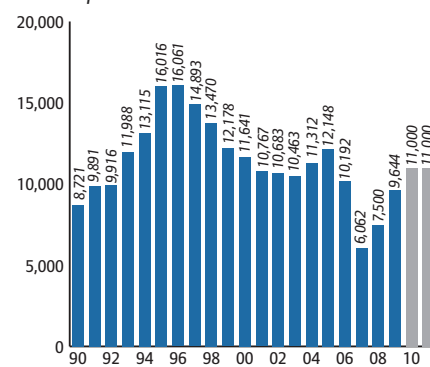
### Insolvencies by sector, 2007

	Number	Change (*)	Share of total
Agriculture & related services	39	-39.1%	0.6%
Industry	1,582	-34.7%	26.1%
Construction	1,059	-31.7%	17.5%
Distribution and services	2,979	-45.9%	49.1%
of which restaurants	313	-62.6%	5.2%
of which services	1,002	-45.7%	16.5%
Transport & communications	335	-31.9%	5.5%
Financial intermediaries	68	-55.3%	1.1%
<b>Total</b>	<b>6,062</b>	<b>-40.5%</b>	<b>100%</b>

source: ISTAT  
\* change 2006 to 2007

### Insolvencies

number of cases



Sources: ISTAT, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

Movimprese estimates some 5.093 million businesses active in Italy, of which 3.4 million are individually owned. Some 95% of Italian businesses are micro-businesses, i.e., those with less than 10 employees. For its part, ISTAT, for 2007, counted more than 4.5 million businesses (95% with less than 10 employees) active in industry, commerce and services (excluding agriculture, public services and associations).

#### Insolvencies

ISTAT only publishes annual business bankruptcy figures, and with two years' delay. Various sources (Infocamere, Cerved, certain bankruptcy courts) provide statistics on *fallimento* and *concordato* procedures.

### Major insolvencies

Company	Turnover (millions of euros)	Activity	Date of insolvency	Number of employees
<b>2009</b>				
Ittierre spa	443	Dressing and dyeing of fur; manuf. of articles of fur	02/2009	824
D'Amato Di Navigazione spa	305	Transport	11/2009	90
Maia Due spa	288	Wholesaling	01/2009	600
Sitindustrie Tubes & Pipes spa	270	Manuf. of basic metals	12/2009	400
Vinyls Italia spa	252	Manuf. of basic chemicals	08/2009	1,061
<b>2010 (end of April)</b>				
Interauto Import spa	159	Sale of motor vehicles	02/2010	140
Franco Chiesa srl	102	Sale of motor vehicles	01/2010	230
Trevisan Cometal	92	Manuf. of machinery and equipment	03/2010	27
Aethra spa	87	Manuf. of radio, television and communications equipment and apparatus	01/2010	350
CDM Paper Group spa	86	Manuf. of paper and paper products	01/2010	110

Source: Euler Hermes

# Spain: insolvencies double

In recession since the second half of 2008, Spain in 2009 suffered its biggest and longest contraction in GDP (-3.6%) for forty years, with a collapse in household consumption, in residential and productive investment, and in exports. The scale of the crisis weakened the fabric of both businesses and the financial system, as payment defaults multiplied. The number of business insolvencies doubled against 2008, with the number of *concurso* procedures rising to nearly 5,000 cases. With the recession, the number of businesses ceasing trading also accelerated (+72%) to 17,385 in 2009, while new business creations fell by a sharp 24.5% to 78,171. Bankruptcies doubled in 2009 not only in the construction sector, but also in industry, retail and wholesale trading, and services. In two years, the real estate crisis has brought bankruptcy to some 2,540 businesses in construction and real estate, these two sectors accounting for a third of the total number of bankruptcies, against 19% in 2007.

## 2010 outlook: more than 5,000 insolvencies

Recovery in activity and in employment will be slow, and, while an exit from recession is near, GDP should post another loss for the whole of 2010 (-0.6%). Given the new austerity measures (15 billion euros

in savings over 2 years) announced in May – coming on top of the 50 billion euro austerity plan to cut the public deficit to 6.2% of GDP in 2011 and to 3% in 2013 – and an unemployment rate close to 20% that will weigh on domestic demand, Spain will have to wait until the end of 2011 or even until 2012 to see positive, and then only very modest, growth. Spanish businesses, which are ill-positioned in terms of competitiveness, will probably need to carry out further adjustments (employment, debt) and postpone their investments in the face of weak demand that remains well below previous levels. The rise in insolvencies seen in Q4 2009 could well continue in 2010, stabilising thereafter at a high level in 2011. ■ MCS

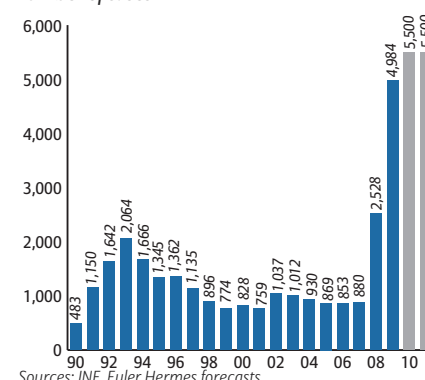
### Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Agriculture	45	41%	1%
Industry	1,201	110%	24%
Construction & real estate	1,671	93%	34%
Retail & wholesale	863	128%	17%
Hotels & restaurants	188	124%	4%
Transport & communications	98	100%	2%
Business services	476	88%	10%
Others	442	70%	9%
<b>Total</b>	<b>4,984</b>	<b>97%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09  
Source: INE

### Insolvencies

number of cases



### Definition and sources of statistics

#### Businesses

Spain's Instituto Nacional de Estadística (INE) annually publishes a census conducted by the Directorio Central de Empresas (DIRCE). On January 1, 2009, there were 3.35 million active businesses (excluding agriculture), of which 94% had fewer than 10 employees and 51% no employees. This list is based on figures from different administrative sources, including company tax records and Spanish social security authorities.

#### Insolvencies

Since the fourth quarter of 2004, INE has been publishing a new series of quarterly business insolvency figures, with a breakdown by sector, by region, by business legal status and by size.

### Major insolvencies

Company	Turnover (millions of euros)	Activity	Date of insolvency	Number of employees
<b>2009</b>				
Nozar S.A.,	467	Real estate activities	10/2009	70
BegarConstrucciones y Contratas, S.A.	441	Construction	07/2009	1,100
Atlantis Servicios Inmobiliarios Sociedad Limitada	332	Real estate activities	01/2009	3
Aurigacrown Car Hire, S.L.	276	Renting of transport equipment	10/2009	299
Grupo DicoObras y Construcciones Sociedad Anónima	240	Construction	04/2009	286
<b>2010 (end of April)</b>				
Industrias Cárnicas Vilaro, S.A.	219	Manuf. of other food products	04/2010	300
Hogares NuevosZaragoza, S.L.	104	Real estate activities	02/2010	21
Xavier Bisbal, S.L.	93	Manuf. of basic precious and non-ferrous metals	03/2010	177
Fetransfor, SL*,	85	Retail sale of food, beverages and tobacco	01/2010	28
Monteverde Grupolnmobiliario, S.L.	83	Real estate activities	04/2010	24

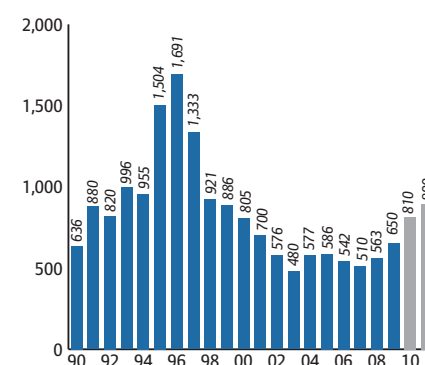
Source: Euler Hermes

# Greece: a financial rescue that will be painful for the economy

Greece will avoid payment default, thanks to an emergency financial aid plan of 110 billion euros, agreed with the European Union and the IMF (announced on May 2, 2010). But the government has committed to a three-year austerity plan which involves new cuts in public expenditure (around 30 billion euros) and new tax increases, in order to cut the public deficit from 13.6% of GDP in 2009 to 8% in 2010 and to below 3% by 2014. This plan of drastic adjustments will incur economic and social costs that will be hard to bear for a country already in recession in 2009 (-2%), given the immediate impact on households, which will see their incomes cut by 20% on average (with lower wages for civil servants, and higher taxes). GDP should fall by around 4% in 2010 and by almost 3% in 2010, with growth only returning in 2012. Against this background – marked by crisis, shock to the banking system and tighter credit – financial problems have increased for many companies weakened

by both the fall in activity and the worsened outlook. The deterioration of solvency resulted in a more than a 15% rise in business insolvencies for the full year 2009, likely to be accentuated in 2010 (+25%) and in 2011 (+10%). ■ MCS

**Insolvencies**  
number of cases



Sources: National Statistical Service of Greece (EYSE), Euler Hermes forecasts

## Definition and sources of statistics

### Businesses

By the latest estimates, 795,556 businesses were registered with the National Statistical Service in 2005.

### Insolvencies

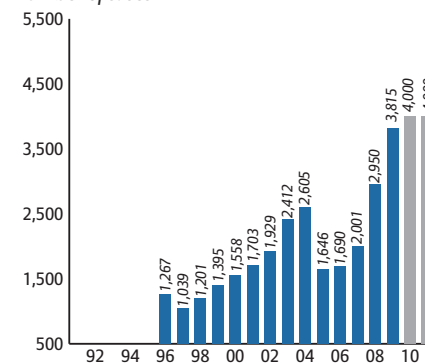
Available official figures on business insolvencies end in 2003. From 2004, the insolvency figures are estimated by Euler Hermes.

# Portugal: rising insolvencies

The recession in Portugal in 2009 was less marked (-2.6%) than in other euro zone countries, but the drift in its public deficit (9.3% of GDP) and its weak growth prospects expose the country to financial market pressures in the wake of the Greek crisis. The government has committed to reducing the deficit to 8.3% of GDP in 2010 and returning it to 3% in 2013, via cuts in public expenditure (freezing public sector salaries and cutting public sector employment), and through privatisation receipts (6 billion euros by 2013). The fall in purchasing power, increased unemployment and the end of a number of stimulus measures will weigh on consumer expenditure hitherto supported by increased recourse to credit. Alongside both the deterioration in activity and tighter credit conditions, the increase in payment delays, in non-payments and in business insolvencies seen in 2008 (+47%) continued in 2009. The number of insolvencies,

based on data published in the official journal, rose by 29% to 3,815 cases. This should continue to rise in 2010, reaching 4,000 cases, before stabilising in the course of 2011. ■ MCS

**Insolvencies**  
number of cases



Sources: Instituto Informador Comercial, D&B, Euler Hermes forecasts

## Definition and sources of statistics

### Businesses

In 2008, Portugal's Instituto Nacional de Estatística (INE) counted 1.1 million businesses in the country, of which 95% have fewer than 10 employees. Overall, Portuguese businesses are mostly active in retail/wholesale distribution (27%), business services and real estate (18%), and construction (11%).

### Insolvencies

In the absence of official insolvency data, various figures are communicated by agencies such as the Portuguese Instituto Informador Comercial (IIC) and Dun & Bradstreet (D&B). Since 2007 Euler Hermes Cossec has constructed its own data series.

## ► Northern Europe

# United Kingdom: 15-year highs

Businesses in England and Wales have faced a particularly difficult economic environment, with the UK only emerging from recession in the last quarter of 2009, after six consecutive quarters of contraction, and a record GDP loss of 4.9% for 2009 overall. The problems unleashed in 2008 – originating in two major sectors of the economy, with the collapse of the real estate bubble and the financial crisis – spread outward to the rest of the economy, leaving no sector untouched and bringing a surge in business insolvencies for the second year running. A new peak in insolvencies, at a quarterly level unseen since the 1990s, came in spring 2009, and the easing that followed was far too weak to make up for it. In the end, business insolvencies rose by more than 17% on the year (after +31% in 2008), with a 15-year record total of more than 35,000 cases. There was a clear uptrend in cases for each major business category: sole traders (+19.2%) and companies (+16.6%), with the latter registering a 23% jump in liquidation procedures.

### 2010 outlook: a slight fall in insolvencies

The gradual economic recovery that began at the end of 2009 and continued in early 2010 should help support the downward trend in insolvencies, which was also

confirmed in Q1 2010 (-1.8% on Q4 2009). Even so, the improvement on the insolvency front should remain a fragile and modest one, given the need to shed debt among economic agents – private and, especially, public. GDP growth is likely to be only 1% in 2010 and 1.5% in 2011, which will not allow any rapid fall in the number of insolvencies, which could still total more than 30,000 cases in 2010 (down by 9%, due to a base effect) and in 2011 (-5%).

■ ML

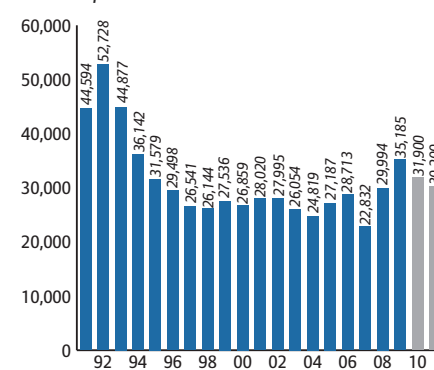
### Insolvencies by sector, 2009

	Number (**)	Change (*)	Share of total
Agriculture & primary industries	346	18.1%	1%
Manufacturing	3,150	27.7%	9%
Electricity, gas & water supply	206	28.0%	1%
Construction	7,040	33.6%	20%
Wholesaling	5,159	12.9%	15%
Hotels & restaurants	2,391	8.0%	7%
Transport, storage and communications	2,369	5.1%	7%
Financial intermediation	648	24.9%	2%
Real estate & business activities	7,575	15.6%	22%
Others	6,301	10.7%	18%
<b>Total</b>	<b>35,185</b>	<b>17.3%</b>	<b>100%</b>

(\*\*) England and Wales only  
(\*) Jan-Dec '08 to Jan-Dec '09  
Source: DTI

### Insolvencies

number of cases



Sources: DTI, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

National Statistics gives estimates of a total of 4.7 million private sector businesses in the UK at the start of 2007.

Among these, according to the Inter Departmental Business Register (IDBR), around 2 million were registered for VAT in 2009 in England and Wales, which is compulsory for any business with a turnover in excess of a certain threshold (set at £68,000).

#### Insolvencies

Figures on business insolvencies are gathered by the Insolvency Service, which publishes quarterly data covering insolvencies of all types for the entire UK. Our series takes in all company insolvencies (liquidations and restructuring procedures) and self-employed bankruptcies for England and Wales. It excludes the figures for Scotland and Northern Ireland, where legal procedures are different.

### Major insolvencies

Company	Turnover (millions of euros) (*)	Activity	Date of insolvency	Number of employees
<b>2009</b>				
Camden Group Services Ltd	1,022	Other land transport	02/2009	731
JJB Sports Plc	911	Retailing	04/2009	13,749
First Quench Retailing Ltd	878	Retailing sale of food, beverages and tobacco	10/2009	6,300
SurrIDGE Dawson Ltd	843	Wholesaling	08/2009	2,959
Nortel Networks uk Ltd	801	Telecommunications	01/2009	2,242
<b>2010 (end of April)</b>				
Jarvis plc	389	Construction	03/2010	2,930
British Seafood Ltd	363	Wholesaling of agricultural raw materials, live animals, food, beverages	02/2010	433
Bloomsbury International Ltd	363	Wholesaling of agricultural raw materials, live animals, food, beverages	02/2010	47
Strobe 3 Ltd	273	Restaurants, bars and canteens	03/2010	226
Colorama Pharmaceuticals Ltd	240	Wholesaling	03/2010	307

(\*) at 1 euro = GBP 1.124

Source: Euler Hermes



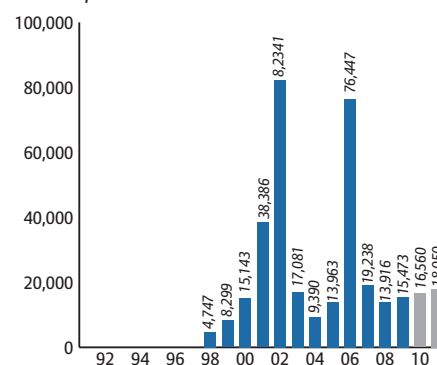
# Russia: historically, a modest rise in official insolvency procedures

The Russian economy was hit very severely by the world economic and financial crisis of winter 2008-2009 and the abrupt shocks it delivered to flows of trade, credit and capital, as well as to commodity prices – in particular prices of hydrocarbons, which account for half of Russian exports. After a decade of uninterrupted growth and a doubling of real GDP, in one of the biggest downturns seen in Europe, the economy contracted massively up to the start of summer 2009, accounting for the bulk of the sharp drop in GDP posted for the whole of the year (-7.9%, compared with -5.3% for the recession of 1998). The economic situation then improved only very gradually, despite a clear upturn in oil prices initially (doubling between February and December) and despite multiple budgetary and monetary measures thereafter. This export-led recovery should manage to spread to domestic demand in 2010-2011, but it will allow GDP to expand only by around 3%. This rate of growth is unlikely to be enough to

quickly improve the situation for Russian businesses, whose problems in 2009 brought an upsurge in bad debts and a 11% increase in the number of bankruptcies. ■ *ML*

## Insolvencies

number of cases



Sources: Supreme Court of Arbitration of the Russian Federation, Euler Hermes forecasts

## Definition and sources of statistics

### Businesses

Federal State Statistics of Russia reports nearly 4.8 million businesses present on January 1, 2009. The services sector is predominant, with more than 3.6 million entities, accounting for 58% of the cumulative turnover of Russian businesses and contributing 64% of GDP. It is followed by construction (8.9% of the business population) and manufacturing industry (8.6% of Russia's businesses but 23% of their cumulative turnover). Note that there is still a significant number of businesses active in the agricultural sector (4.8% of the business population) and note also the strong contribution to GDP

made by the small number of businesses active in primary energy extraction (7,000 businesses accounting for 6% of the cumulative turnover of all Russian businesses).

### Insolvencies

A survey of insolvency procedures is carried out by the Supreme Court of Arbitration of the Russian Federation, which publishes its data each half-year. Our series, which publishes its figures every six-month period. Our series uses the data for the number decisions to open bankruptcy procedures.

# Sweden: falling since the last quarter of 2009

The abrupt economic contraction seen in winter 2008-2009 (with GDP falling by 4.4% in Q4 2008 and by 1.3% in Q1 2009), along with the financing difficulties resulting from the credit crunch, proved insurmountable for a large number of companies already weakened by the economic slowdown triggered in early 2008. Business profits (as measured by national accounts) fell by a significant 18% in 2009 (-5% in 2008) and insolvencies posted another leap (+21% after +9% in 2008) for an annual total of more than 7,600 cases. Insolvencies peaked, however, in H1 2009, roughly in phase with the gradual recovery in activity, driven by exports. The improvement on both fronts was confirmed in Q1 2010 (with insolvencies down by 15% on one year). However, the continuation of this double trend could run out of steam, although in the end it should allow the number of insolvencies to come down over 2010-2011. ■ *ML*

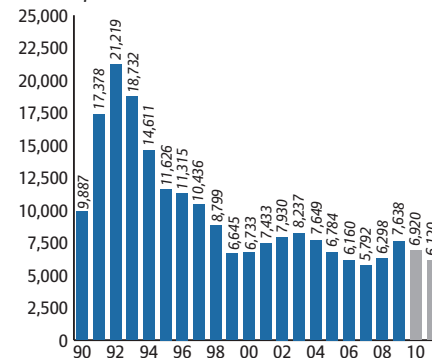
## Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Agriculture & primary industries	89	-10.1%	1.2%
Manuf. industry	637	39.4%	8.3%
Construction	986	20.2%	12.9%
Automotive	259	0.4%	3.4%
Wholesaling	653	26.6%	8.5%
Retailing	927	23.6%	12.1%
Hotels & restaurants	464	5.7%	6.1%
Transport & communications	656	108.9%	8.6%
Finance & real estate	295	42.5%	3.9%
Other services	2,672	9.6%	35.0%
<b>Total</b>	<b>7,638</b>	<b>21.3%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09  
Source: SCB

## Insolvencies

number of cases



Sources: SCB, Euler Hermes forecasts

## Definition and sources of statistics

### Businesses

Statistics Sweden (Statistiska Centralbyran – SCB) counted 966,000 businesses active in 2008, covering all sectors of the economy included in European nomenclature categories A to Q, including 26% in business services, 22% in agriculture, 13% in wholesale/retail commerce, 8% in construction and 6% in manufacturing industry. Of these, 870,000 had fewer than 5 employees and 3,350 had fewer than 10 employees.

### Insolvencies

Statistics Sweden gathers figures each month for insolvencies of all types, by region, by legal status, by type of activity and by number of employees. The series we use covers the totality of business insolvencies (for companies and individual entrepreneurs). It excludes bankruptcies of strictly private persons, which generally account for 5% of total bankruptcies.

# Norway: still high insolvency figures

The Norwegian economy held up generally better to the world crisis than its Scandinavian and European neighbours, with GDP falling by less (-1.6%), helped in particular by support from public expenditure and resilient household demand. The shock was nonetheless significant for businesses – both those more directly dependent on external markets or sensitive to the excessive fluctuations in hydrocarbon prices, and as well all the rest, already in fact weakened by the slowdown in activity (apart from in the oil sector) that began at the start of 2008. The leap in insolvencies was confirmed throughout the year (+38% in 2009, after +28% in 2008), and affected all sectors of the economy, but the year-on-year trend gradually eased. The return to growth, expected to come at a modest pace over 2010, should bring only a very small fall in the volume of insolvencies up to 2011. ■ ML

## Insolvencies by sector, 2009

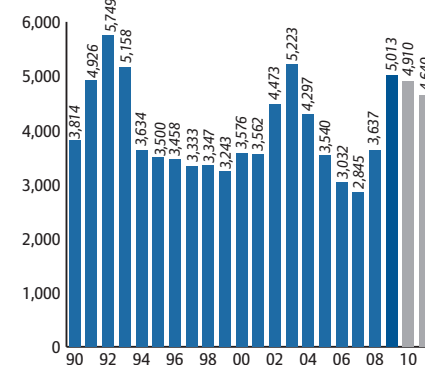
	Number	Change (*)	Share of total
Agriculture & primary industries	87	29.9%	1.7%
Manuf. industry	317	40.9%	6.3%
Construction	1,206	43.4%	24.1%
Automotive	158	41.1%	3.2%
Wholesaling	345	46.8%	6.9%
Retailing	752	38.2%	15.0%
Hotels & restaurants	358	28.3%	7.1%
Transport & communication	352	33.8%	7.0%
Other services	1,438	34.3%	28.7%
<b>Total</b>	<b>5,013</b>	<b>37.8%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09

Source: SSB

## Insolvencies

number of cases



Sources: SSB, Euler Hermes forecasts

## Definition and sources of statistics

### Businesses

Statistics Norway (Statistisk Sentralbyrå – SSB) counted around 350,000 businesses active at the end of 2009, excluding public entities and the primary industries (totalling around 80,000 units) of agriculture, forestry and fisheries. Of those counted, 44% were private limited companies and 45% sole proprietorships. Nearly 62% are small structures where the director is the sole employee, but the number of businesses with more than ten employees has risen since 2002.

### Insolvencies

SSB publishes figures on bankruptcies of all types occurring each month, by region, type of activity, turnover and number of employees, drawn from the Register of Bankruptcies in Bronnoysund and the Value Added Tax Registration List. Our series covers all business bankruptcies (of all legal structures) and personal bankruptcies (on the part of individual entrepreneurs and private persons, which are not distinguished).

# Denmark: a continued increase in insolvencies

The crisis of winter 2008-2009 came as a all the more of an abrupt shock to the largely export-oriented Danish economy, given that, since 2007, it had already begun an evident slowdown in domestic demand after several years of overheating. By spreading to the rest of the economy, the collapse in exports only amplified the already growing difficulties faced by businesses. As in 2008, the surge in bankruptcies spared no area nor any sector, resulting in a record total of more than 5,700 cases (+54%) in 2009. This unenviable performance risks being repeated in 2010, with a potential total of 6,000 insolvencies, given that GDP is likely to rise only by a little more than 1% this year (after -4.9% in 2009) – too low a figure to quickly improve the situations of Danish businesses. A modest fall in insolvencies should only be visible in the totals for 2011. ■ ML

## Insolvencies by sector, 2009

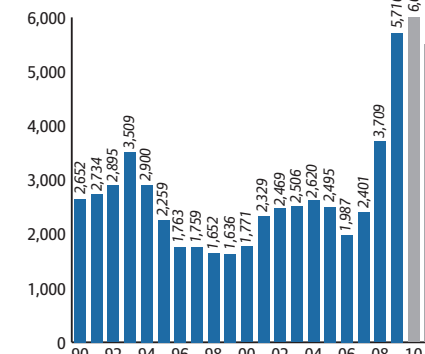
	Number	Change (*)	Share of total
Agriculture	70	100.0%	1.2%
Industry	403	70.8%	7.1%
Construction	980	35.7%	17.2%
Automobiles & components	139	40.4%	2.4%
Retail & wholesale	969	48.6%	17.0%
Hotels & restaurants	282	34.9%	4.9%
Transport & communication	515	49.7%	9.0%
Business services	1,165	74.9%	20.4%
Other services	1,187	59.1%	20.8%
<b>Total</b>	<b>5,710</b>	<b>53.9%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09

Source: DST

## Insolvencies

number of cases



Sources: DST, Euler Hermes forecasts

## Definition and sources of statistics

### Businesses

The general figures published by Danmarks Statistik (DST) showed more than 300,000 companies active in 2007. This figure includes business entities of every legal status, of which around 60% are individually owned businesses, and covers every sector of activity (including 42,000 entities in agriculture, fisheries and the primary extraction sector). Around 90% employ fewer than 10 persons. More than 4,300 businesses employ more than 50 persons, accounting for more than 50% of the cumulative turnover of all Danish businesses.

### Insolvencies

Our series draws on figures from DUST, and published by DST. Each month, in the Danish Official Gazette, the DUST lists the totality of declared business bankruptcies by activity and region for the whole of Denmark (excluding the Faeroe Islands and Greenland).

# Finland: the highest figures since 1997

In a severely degraded macroeconomic environment and a recession far more marked than in other OECD countries, with GDP down by 7.8%, Finnish business insolvencies posted a new acceleration in 2009, at an amplitude unseen since the early 1990s (+30% after +14% in 2008). Bankruptcies rose by 25% and reorganisations rose by 73%, reaching a significant cumulative volume of more than 3,800 cases. The profound drop in exports during winter 2008-2009 abruptly compounded the reversal of an economy already slowing since 2007 and exacerbated the difficulties facing businesses across all sectors. The weak economic recovery expected for 2010-2011, after a second half of 2009 just showing stabilisation in GDP, threatens to be fatal to a great many businesses, especially in light of the notable 40% increase in the business population since 2001. The years 2010 and 2011 will probably only show a modest easing in the number of insolvencies. ■ ML

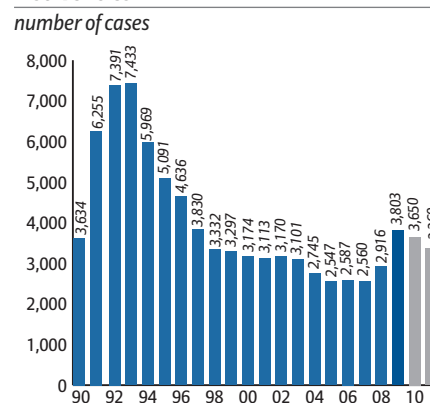
## Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Agriculture	61	17.3%	1.6%
Industry	484	33.0%	12.7%
Construction	844	19.9%	22.2%
Retail & wholesale	648	23.9%	17.0%
Hotels and restaurants	334	45.9%	8.8%
Transport & communication	218	3.8%	5.7%
Other sectors & services	896	21.7%	23.6%
Others	318	224.5%	8.4%
<b>Total</b>	<b>3,803</b>	<b>30.4%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09

Source: Statistics Finland

## Insolvencies



Sources: Statistics Finland, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

Statistics Finland's Register of Enterprises and Establishments counted more than 320,900 businesses in 2008, employing more than 1.5 million persons, in all sectors of activities and all legal forms, including 57,000 entities in the primary sector. Of the total, fewer than 3,000 (or around 1%) employed more than 50 persons, but these accounted for more than 70% of the turnover of Finnish businesses, estimated to total almost €397bn in 2008.

#### Insolvencies

Statistics Finland takes a monthly census of all business insolvencies, with monthly figures for business bankruptcies and quarterly figures for reorganisation procedures (by sector of activity, by turnover and by number of employees). The series we use comprises all declared business bankruptcies (including sole trader bankruptcies, which account for a fifth of the total) and business reorganisation procedures. It excludes personal bankruptcies.

# Netherlands: record insolvencies

Business insolvencies accelerated phenomenally in 2009, with each successive quarter of the year posting new record volumes of cases. Businesses rapidly felt the impact of an environment particularly worsened in the wake of the global crisis, given the Netherlands' high level of dependence on world trade and on commodity prices – a consequence of its specialisation in port facilities. The fall in aggregate demand, worsened by the difficulties in financing, also spread quickly to the whole of the economy, bringing a considerable 4% fall in GDP. The continuation of the gradual recovery in world trade that began in the second half of 2009 will help to reverse the trend, but the internal imbalances created by the crisis are likely to impact durably and fuel a still high (although falling) number of insolvencies up to 2011. ■ ML

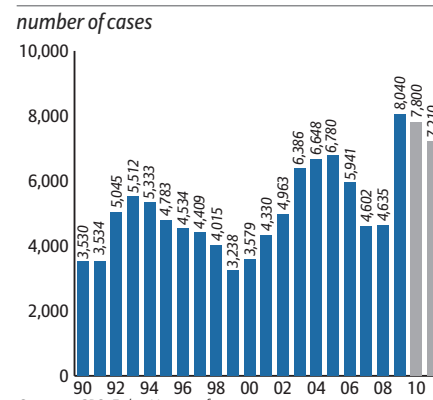
## Insolvencies by sector, 2009

	Number	Change (*)	Share of total
Agriculture	143	62.5%	1.8%
Industry	915	114.8%	11.4%
Construction	997	58.8%	12.4%
Retail & wholesale	1,934	59.7%	24.1%
Hotels & restaurants	311	33.5%	3.9%
Transport & communications	476	72.5%	5.9%
Finance & business services	2,791	89.0%	34.7%
Others	473	59.8%	5.9%
<b>Total</b>	<b>8,040</b>	<b>73.5%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09

Source: CBS

## Insolvencies



Sources: CBS, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

The Centraal Bureau voor de Statistiek (CBS) puts the number businesses in the Netherlands as of January 1, 2009, all sectors included, at 844,000. Of these, 50% were in services, more than 20% in retailing and wholesaling, nearly 15% in agriculture, more than 10% in construction and 5% in industry. Around 90% have more than 10 employees, while fewer than 1% have more than 100 employees.

#### Insolvencies:

The CBS registers all bankruptcies ruled on by the bankruptcy courts, including personal bankruptcies, which account for 25% of the total. Our series takes in business failures for all sectors of activity, and includes companies, 'single-owner companies' and partnerships. These account for 75% of bankruptcies. We exclude personal bankruptcies, which account for 25% of the total.

# Belgium: more than 10,000 bankruptcies and legal arrangements

Belgium exited from recession in the third quarter of 2009, with the upturn in the economy helping to limit the fall in GDP for the full year to 3%. Belgian business insolvencies worsened, with 10,074 cases in 2009, including 9,421 bankruptcies (+11%), bringing 23,820 job losses (+18%). On top of the bankruptcies, there were also the 653 cases that came under the new 'legal reorganisation' procedure that came into effect in April 2009 (replacing the *concordat* procedure). The biggest rise in bankruptcies came in construction and industry. The economy has not yet returned to its pre-crisis levels, but gradual recovery should continue, and GDP growth should reach 1.3% in 2010 and 1.6% in 2011, thanks to stronger world trade, although domestic demand should remain weak in the face of increased budget austerity. Financial difficulties for businesses persist, and, in Q1 2010, the insolvency trend continued to rise (+4% on Q4 2009). For 2010 overall, we expect bankruptcies to rise by 5%. ■ MCS

## Insolvencies by sector, 2009

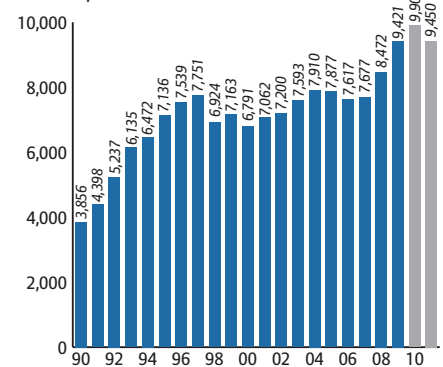
	Number	Change (*)	Share of total
Agriculture	141	2.9%	1.5%
Industry	549	14.4%	5.8%
Construction	1,390	17.6%	14.8%
Retail & wholesale	2,574	5.6%	27.3%
Hotels & restaurants	1,781	13.6%	18.9%
Transport & communications	2,598	14.1%	27.6%
Others	388	-0.3%	4.1%
<b>Total</b>	<b>9,421</b>	<b>11.2%</b>	<b>100%</b>

(\*) Jan-Dec '08 to Jan-Dec '09

Source: INS/SPF

## Insolvencies

number of cases



Sources: INS, Euler Hermes forecasts

## Definition and sources of statistics

### Businesses

The Directorate-General for Statistics and Economic Information (also known as Statistics Belgium) of the Federal Public Service (FPS) Economy (formerly Ministry of Economics) counted 737,127 companies registered for VAT in 2007, including independents and excluding non-profit companies. Of this figure, 95% employed less than 10 persons.

### Insolvencies

FPS publishes figures each month on declared business bankruptcies. These figures are broken down by major sector, by the party's legal status (bankruptcies of individual entrepreneurs, cooperatives, public limited companies and private limited companies), and by region. These figures are based on judgements rendered by the bankruptcy courts and have been completed, if required, using data from register of businesses of Statistics Belgium. For the *concordat* procedures, the data are from Graydon.

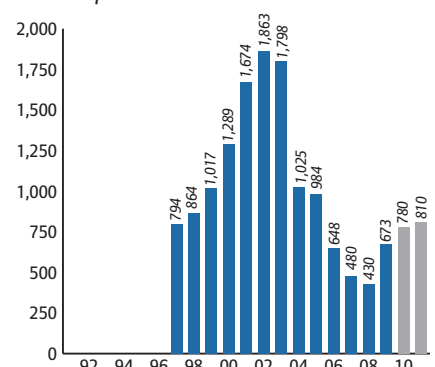
# Poland: the economy has proved resilient but insolvencies are back on the rise

Poland was the only country in Europe to enjoy economic growth in 2009, and while clearly slowing, GDP rose by 1.7%. Expansionary budget policy and monetary easing gave simultaneous support to infrastructure investment and household consumption, helping to cushion the slowdown in external demand, although this came at the prices of worsened public accounts and increased public debt. The private sector nonetheless was weakened by the slower activity and tighter credit, and the financial state of many businesses deteriorated, bringing a sharp 58% rise in insolvencies in 2009, after six years of falling figures. The outlook remains good, with likely growth of 2.5% in 2010 and 3% in 2011. Exports and foreign investment should take over from household demand, the latter less sustained due to increased unemployment and the tighter budget policy expected under the government in power after the June 2010 elec-

tions. In an environment of modest growth and still tight credit, business insolvencies will continue to rise, increasing by 16% and 4% 2011, rising back to a total of more than 800 cases. ■ MCS

## Insolvencies

number of cases



Sources: Euler Hermes, Ministry of Justice

## Definition and sources of statistics

### Businesses

The Central Statistics Office counted 3.6 million businesses in 2005, including 2.8 million individual entrepreneurs.

### Insolvencies

Our series covers insolvencies since 1997 and is based on the number of judgements published in the Ministry of Justice official journal, Monitor Sadowy i Gospodarczy.



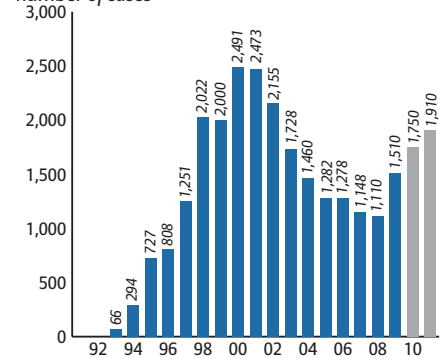
# Czech Republic: a sharp increase in insolvency procedures

The Czech economy came out of recession in mid-2009, with GDP returning to positive growth in Q3. Government support measures amounting to 2% of GDP were alone in helping to ease the fall in private consumption, but falls in both investment (-8.3%) and exports (-10.2%) strongly contributed to GDP dropping by 4.2% for the full year. Exports account for some 75% of GDP, and sales to the EU felt the full brunt of the economic crisis, bringing a 4.5% drop in industrial output. The economy should continue to recover gradually, but GDP should grow only by 1.5% in 2010, due to increased unemployment and tighter budget policy (both of which will slow domestic demand) and due to the weak economy in the euro zone, which will impact on export growth. In this environment, businesses' financial positions have suffered and bankruptcy petitions filed by creditors have increased significantly. Indeed, with the changes made in

bankruptcy law, creditors seem to be quicker to file insolvency claims against debtors in the bankruptcy courts. This in part explains the significant (+36%) increase in bankruptcies in 2009, which could continue (albeit in less marked fashion) in 2010 (+16%) and in 2011 (+9%), with the number of cases rising to 1,900 at the end of 2011. ■ MCS

## Insolvencies

number of cases



Sources: Ministry of Justice, Euler Hermes forecasts

### Definition and sources of statistics

#### Businesses

The Czech Statistical Office counted 952,900 SMEs in the private sector in 2005 (excluding financial services and consumer services) of which 95% employed fewer than 10 persons.

#### Insolvencies

Figures for the number of insolvencies are drawn from the Insolvency Register maintained by the Ministry of Justice.

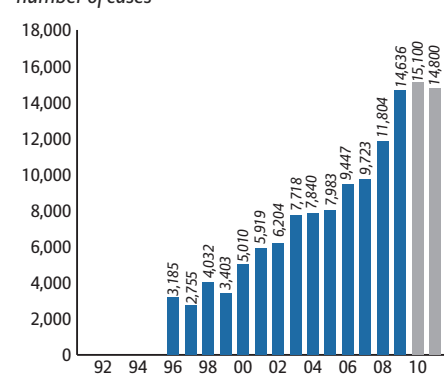
# Hungary: moving towards stabilisation after two years of sharp increase

Hit hard by the financial crisis at the end of 2008, Hungary avoided bankruptcy itself thanks to a 20 billion euro lifeline from the IMF, the World Bank and the EU. In return, it had to agree budget tightening and credit conditions which weighed on domestic demand and plunged the economy into severe (-6.3%) recession. Given the programme of budget austerity and Hungary's commitment to take the deficit down to 3.8% of GDP in 2010, the new government headed by Prime Minister Viktor Orbán (of the conservative/centre-right Fidesz – Hungarian Civic Union) has little room for manoeuvre, notwithstanding promises to support household consumption. Emerging from the crisis will be a long process, and, despite the fall in interest rates, GDP could drop by a further 0.5% in 2010, due to a negative growth impulse from domestic demand. However, recovery in exports

should lead to growth of 2% in 2011. In the face of the tighter credit and collapse in activity in the past two years, many indebted businesses (shouldering foreign currency debt) filed for bankruptcy. The sharp rise in insolvencies seen in 2008 (+21%) and 2009 (+24%) should gradually ease, bringing a 3% increase to 15,000 cases in 2010. ■ MCS

## Insolvencies

number of cases



Source: Euler Hermes

### Definition and sources of statistics

#### Businesses

Hungary's Central Statistical Office (Központi Statisztikai Hivatal) counted 1.2 million businesses (including 670,000 sole proprietorships) as of December 31, 2006, of which 55% were in the private commercial (i.e., excluding non-profit) sector, judging from the average ratio observed over 2000-2004.

#### Insolvencies

The annual number of business insolvencies, which includes bankruptcy and liquidation procedures (99.7% of cases), is estimated by Euler Hermes.



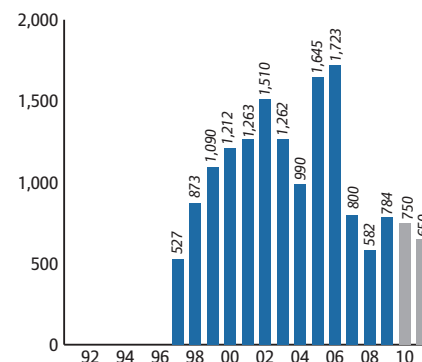
# Slovakia: up sharply in 2009, but expected to fall

After several years of strong growth (including +6.4% in 2008), in 2009 Slovakia experienced its first recession since its creation in 1993. GDP dropped by 4.7%, and industrial output plunged by 15%, hit by falling domestic and export demand. The recovery in the economy seen in the second half of 2009 should continue, but household consumption and business investment will be held back by unemployment and tighter credit, while automobile industry exports should reflect the impact of the end of auto scrappage schemes across Europe. On the insolvency front, the 35% increase in bankruptcies posted in 2009 was basically due to the contraction in activity and tighter credit. Slovakia's economy should return to growth of the order of 2.5% in 2010 and 2011, and this should allow the number of insolvencies to fall, with a 4% drop in 2010 and a return towards 650 cases in 2011.

■ MCS

## Insolvencies

number of cases



Sources: Ministry of Justice, Euler Hermes forecasts

## Definition and sources of statistics

### Businesses

The Statistical Office of the Slovakia counted 527,486 businesses in 2006, of which 74% were sole traders and 26% companies.

### Insolvencies

Slovakia's Ministry of Justice is responsible for recording the number of insolvencies, which are broken down by type of procedure.

# Lithuania: record recession and bankruptcies

Lithuania has suffered the worse contraction in its economy since gaining independence in 1990. The world economic and financial crisis abruptly and severely amplified, in winter 2008-2009, the trend of falling insolvencies that began after several years of frenetic but also unbalanced growth. The collapse in the economy was also spectacular, with GDP dropping 15% by volume after average expansion of 7.4% over 2001-2008. Domestic demand suffered a massive 21% drop, accompanied by the unemployment rate more than doubling to 13.7% and an explosion in business insolvencies in every major sector, especially in the first half of 2009 (+90%). Gradual improvement in the economic climate should help gradually ease the difficulties of businesses, but the signs are that the pace of recovery should prove overall too weak to prevent a high number of insolvencies looking forward to 2011. ■ Ms

## Insolvencies by sector, 2009

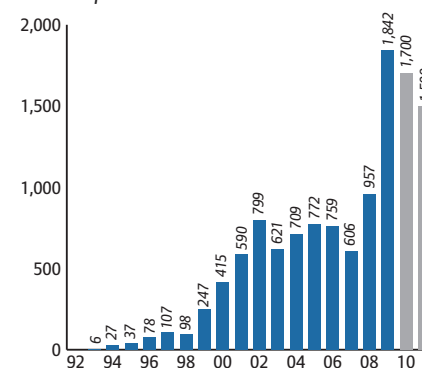
	Number	Change (*)
Agriculture	28	-20%
Industry	321	55%
Construction	421	124%
Retail & wholesale	416	63%
Hotels & restaurants	61	30%
Transport & communications	300	249%
Real estate & businesses	171	167%
Other sectors & services	124	68%
<b>Total</b>	<b>1,842</b>	<b>92%</b>

(\*) Jan-Dec '08 to Jan-Dec '09

Source: Department of Enterprise Bankruptcy Management

## Insolvencies

number of cases



Sources: DEBM, Euler Hermes forecasts

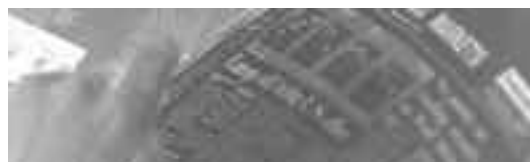
## Definition and sources of statistics

### Businesses

The Department of Statistics recorded a business population of nearly 63,600 active business entities in 2008 (of which more than 30% were individual entrepreneurs), an increase of more than 8,700 businesses (+16%) since 2004.

### Insolvencies

The series we employ uses data from the Department of Enterprise Bankruptcy Management (DEBM), which since 2001 has on a quarterly basis published detailed information on business bankruptcies in Lithuania.



# Contributions

**This issue was prepared with the collaboration of the following entities within the Euler Hermes group:**

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South Korea	Euler Hermes Credit Underwriters Hong Kong Ltd.	William Chan
Taiwan	Euler Hermes Credit Underwriters Hong Kong Ltd.	William Chan
Hong Kong	Euler Hermes Credit Underwriters Hong Kong Ltd.	William Chan
Singapore	Euler Hermes Credit Insurance Agency (S) Pte Ltd.	Danny Lee
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Spain	Euler Hermes Credito Compania de Seguros y Reaseguros SA	Jose Maria Cadenas, Belen Diaz
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Slovakia	Euler Hermes Servis, s.r.o.	Eva Budzakova

# Major insolvencies worldwide

in 2009 - 2010

Date	Country	Company	Last known turnover in millions of euros	Activity
04/2010	South Korea	Daewoo Motor Sales Corporation	1,790	Sale of motor vehicles
04/2010	South Korea	Namyang Construction Co LTD	631	Construction
04/2010	Spain	Industrias Cárnicas Vilaro, S.A.	219	Manuf. of other food products
04/2010	Spain	Monteverde GrupoInmobiliario, S.L.	83	Real estate activities
04/2010	Germany	AML Group GmbH	65	Sale of motor vehicles
04/2010	Germany	KONSUM Sachsen Nord eG	31	Wholesaling
04/2010	Denmark	Dansk Biogas Industri	23	Electricity, gas and water supply
04/2010	Hungary	Leonardo Hungary Kft	11	Retailing
03/2010	Japan	Willcom Inc.	1,530	Telecommunications
03/2010	Japan	U.F.O. kk	675	Wholesaling of household goods
03/2010	USA	Xerium Technologies, Inc	459	Manuf. of paper and paper products
03/2010	USA	Orleans Homebuilders Inc.	420	Construction
03/2010	UK	Jarvis plc	389	Construction
03/2010	South Korea	Sungwon Corporation	277	Construction
03/2010	UK	Strobe 3 Ltd	273	Restaurants, bars and canteens
03/2010	UK	Colorama Pharmaceuticals Ltd	240	Wholesaling
03/2010	Poland	KEM SP Z O O	145	Recycling of metal waste and scrap
03/2010	Germany	V.W. Werke Vincenz Wiederholt GmbH & Co.KG	95	Casting of metals
03/2010	Spain	Xavier Bisbal,S.L.	93	Manuf. of basic precious and non-ferrous metals
03/2010	Italy	Trevisan Cometal	92	Manuf. of machinery and equipment
03/2010	Austria	U.E.G.-A.D.L.-Gruppe	74	Manufacturing
03/2010	France	INTERGESTION	71	Wholesaling
03/2010	Japan	GFS kk	67	Wholesaling of household goods
03/2010	Czech Republic	Trailer a.s.	59	Manuf. of other transport equipment
03/2010	Germany	Zirn Agrar GmbH	55	Wholesaling
03/2010	Belgium	Mepa	51	Chemicals
03/2010	France	STE D APPLICATIONS HYDRAULIQUES LEDUC	42	Manuf. of transport equipment
03/2010	Denmark	J.G. Trading	41	Agriculture, hunting and forestry
03/2010	Czech Republic	Premie Steel, a.s.	39	Wholesaling
03/2010	Czech Republic	Petr Skalnik	39	Manuf. of basic metals
03/2010	Sweden	Kungsaska Graphic AB	37	Printing and service activities related to printing
03/2010	Belgium	Mitra Energy & Infrastructure	31	Electronics
03/2010	Austria	BLUMENFELD Holzhandel GmbH	30	Agriculture & primary industries
03/2010	Germany	Max Mayer Maschinenbau GmbH	29	Manuf. of machinery and equipment
03/2010	Finland	Carawall Oy	29	Sale of motor vehicles
03/2010	Sweden	Newskills Sweden AB	28	Wholesaling of machinery, equipment and supplies
03/2010	Denmark	Investeringsselskabet	27	Construction
03/2010	Hungary	N + N Építőipari Kft	21	Construction
03/2010	Finland	Solifer Oy	19	Sale of motor vehicles
03/2010	Finland	H & P Infra Oy	18	Construction
03/2010	Finland	Quattrol Oy	16	Manuf. of machinery and equipment
03/2010	Hungary	MEGA Fuvarozó Kft.	13	Sale of motor vehicles
02/2010	USA	Movie Gallery, Inc.	1,765	Publishing, printing and reproduction of recorded media
02/2010	UK	British Seafood Ltd	363	Wholesaling of agricultural raw materials, live animals, food, beverages and tobacco
02/2010	UK	Bloomsbury International Ltd	363	Wholesaling of agricultural raw materials, live animals, food, beverages and tobacco
02/2010	Austria	COSMOS Elektrohandels GmbH & Co KG	200	Commerce
02/2010	France	GROUPE EM2C	166	Construction
02/2010	Italy	Interauto Import spa	159	Sale of motor vehicles
02/2010	Spain	Hogares NuevosZaragoza, S.L.	104	Real estate activities
02/2010	Poland	CEZEX SP Z O O	73	Wholesaling
02/2010	Sweden	Zakrisdalsverken AB	72	Manuf. of parts and accessories for motor vehicles and their engines
02/2010	Poland	GEN BUD S.A.	61	Wholesaling
02/2010	Czech Republic	Jan Sturma - Metalcentrum	39	Wholesaling
02/2010	Belgium	Spidium	33	Commerce
02/2010	Finland	Ajasto Osakeyhtiö	19	Publishing
02/2010	Canada	White Brich Paper Company	nd	Printing and service activities related to printing
02/2010	Canada	Conjuchem Biotechnologies Inc	nd	Human health activities
02/2010	Netherlands	Gebr HJ & P Bayer CV	na	Commerce
01/2010	Japan	Japan Airlines	14,689	Air transport
01/2010	USA	Mesa Air Group, Inc.	955	Air transport
01/2010	USA	Affiliated Media, Inc.	763	Publishing, printing and reProd. of recorded media
01/2010	Italy	Franco Chiesa srl	102	Sale of motor vehicles
01/2010	Czech Republic	Oděvní podnik, a.s.	101	Manuf. of textiles
01/2010	Italy	Aethra spa	87	Manuf. of radio, television and communications equipment and apparatus
01/2010	France	SELLFAST	86	Wholesaling
01/2010	Italy	CDM Paper Group spa	86	Manuf. of paper and paper products
01/2010	Spain	Fetransfor, SL,	85	Retailing sale of food, beverages and tobacco
01/2010	Austria	REICH-AUSTRIA Spezialmaschinen GesmbH	71	Manufacturing
01/2010	France	ENIA FRANCE SAS	69	Manufacture of carpet
01/2010	Austria	DMT Technology GmbH	57	Manufacturing
01/2010	Poland	GPM HANDEL SP Z O O	52	Wholesaling
01/2010	Poland	STOCZNIA MARYNARKI WOJENNEJ SA	50	Building and repairing of ships and boats
01/2010	Denmark	Globel Danmark	35	Service activities
01/2010	Denmark	Hot 056334	27	Manuf. of general purpose machinery
01/2010	Sweden	BRL Electronics AB	27	Retailing
01/2010	Belgium	Autos	20	Services
01/2010	Belgium	De Poortere Fabrics	16	Textile
01/2010	Hungary	CSIKI-BEGE Kft	11	Sale of motor vehicles
01/2010	Hungary	CASE Hungary Kft	8	Wholesaling
01/2010	Netherlands	Afouwgroep Groningen NV	na	Construction
12/2009	Italy	Sitindustrie Tubes & Pipes spa	270	Manuf. of basic metals
12/2009	Canada	Hollinger Canadian Publishing Holdings Co.	nd	Publishing
11/2009	Italy	D'Amato Di Navigazione spa	305	Transport
11/2009	Austria	Quelle Aktiengesellschaft	210	Commerce
11/2009	Belgium	Sonica	105	Commerce
11/2009	Sweden	ACB Laminat AB	45	Manuf. of products of wood, cork, straw and plaiting materials

Source: Euler Hermes

**Chronological table (descending order) of the biggest known insolvencies in 2009-2010 and mentioned in this publication for the following countries: USA, Canada, Japan, South Korea, France, Germany, Switzerland, Austria, Italy, Spain, United Kingdom, Netherlands, Poland, Belgium, Sweden, Denmark, Finland, Czech Republic, Hungary**

Date	Country	Company	Last known turnover in millions of euros	Activity
10/2009	Canada	Canwest Global Communications Corp	2,013	Telecoms
10/2009	UK	First Quench Retailing Ltd	878	Retailing sale of food, beverages and tobacco
10/2009	Spain	NOZAR S.A.,	467	Real estate activities
10/2009	France	Pôle Keyria (groupe Legris)	427	Manuf. of office, accounting and computing machinery
10/2009	Spain	Aurigacrown Car Hire,S.L	276	Renting of transport equipment
10/2009	Poland	PRONOX TECHNOLOGY S A	164	Wholesaling of machinery, equipment and supplies
10/2009	Belgium	Overseas Diamonds	136	Commerce
10/2009	Belgium	Crossrail Benelux	78	Services
10/2009	Canada	Brute Force Oil Field Hauling Inc	nd	Extraction of crude petroleum and natural gas
10/2009	Canada	Glendyne Inc	nd	Other mining and quarrying
09/2009	Finland	Delta-Auto Oy	516	Sale of motor vehicles
09/2009	South Korea	Hyunjin Construction Co LTD	262	Construction
09/2009	Finland	Delta Motor Group Oy	128	Sale of motor vehicles
09/2009	Finland	Delta Motor Oy	112	Sale of motor vehicles
09/2009	Czech Republic	PA EXPORT, a.s.	108	Wholesaling
09/2009	Belgium	National Gold Exchange NV	62	Commerce
09/2009	Poland	KUŹNIA POLSKA S A	50	Activities auxiliary to financial intermediation
08/2009	UK	Surridge Dawson Ltd	843	Wholesaling
08/2009	Austria	non ferrum Metallpulver Ges.m.b.H. & co. KG	500	Manufacturing
08/2009	Italy	Vinyils Italia spa	252	Manuf. of basic chemicals
08/2009	Denmark	Sapa	122	Wholesaling
08/2009	Finland	J. Kärkkäinen Oy	114	Retailing
07/2009	USA	Lear Corporation	9,228	Automotive suppliers
07/2009	South Korea	Daewoo Logistics	1,136	Sea and coastal water transport
07/2009	Spain	Begar Construcciones y Contratas, S.A.	441	Construction
07/2009	France	LA SOURCE	200	Retailing
07/2009	Czech Republic	Karimpex, a.s.	139	Retail sale of automotive fuel
07/2009	Poland	MAFLOW POLSKA SP Z O O	135	Manuf. of wearing apparel, except fur apparel
07/2009	Poland	PPHU DUDA BIS SP Z O O	130	Manuf. of food products and beverages
07/2009	Hungary	Elektro Computer zrt.	81	Retailing
07/2009	Poland	KROŚNIENSKIE HUTY SZKŁA KROSNO S A	76	Manuf. of glass and glass products
07/2009	Sweden	CGDR Sverige AB	43	Retailing
06/2009	USA	General Motors Corporation	100,458	Automotive
06/2009	Germany	Arcandor AG	19,400	Retailing
06/2009	Japan	Joint Corporation	1,415	Real estate activities
06/2009	Belgium	Euro-Paper (Group Arcandor)	156	Publishing, printing and reProd. of recorded media
06/2009	Hungary	DAM 2004 Kft	95	Manuf. of basic iron and steel
06/2009	Sweden	Pharmadule Emtunga AB	64	Construction
06/2009	Hungary	LCP System Kft	28	Wholesaling
05/2009	France	NORTEL NETWORKS	369	Telecom
05/2009	Czech Republic	Kordárna, a.s.	216	Manuf. of textiles
04/2009	USA	Chrysler LLC	32,164	Automotive
04/2009	Canada	AbitibiBowater Inc	4,332	Forestry, logging and related service activities
04/2009	Japan	SFCG Co., Ltd.	1,028	Financial intermediation
04/2009	UK	JJB Sports Plc	911	Retailing
04/2009	Germany	DWW Woolworth Deutschland GmbH & Co KG	750	Retailing
04/2009	France	groupe RODRIGUEZ-BOAT SERVICE	410	Building and repairing of ships and boats
04/2009	Spain	Grupo DicoObras y Construcciones Sociedad Anónima	240	Construction
04/2009	Sweden	Motorcentrum Gjestvang AB	84	Sale of motor vehicles
04/2009	Switzerland	IMC Metall AG	82	Wholesale metals
04/2009	Austria	Leitinger Gruppe	69	Agriculture & primary industries
04/2009	Switzerland	ASC African Safari Club AG	66	Transport; travel agency
04/2009	Austria	Holzindustrie Preding Ges.m.b.H.	40	Agriculture & primary industries
04/2009	Canada	Jung Developments Inc	nd	Construction
03/2009	Japan	Pacific Holdings Inc.	992	Real estate activities
03/2009	Germany	Plastal GmbH	850	Manuf. of parts and accessories for motor vehicles and their engines
03/2009	Japan	Azel Corporation	449	Real estate activities
03/2009	Denmark	Selskabet	349	Monetary intermediation
03/2009	France	EURO DISTRIBUTION ALIMENTAIRE	252	Wholesaling
03/2009	Czech Republic	Moravia Energo, a.s.	125	Manuf. of gas; distribution of gaseous fuels through mains
03/2009	Denmark	Jeh 53339	100	Manuf. of food products and beverages
03/2009	Austria	Holzindustrie Theresia Häupl GmbH	54	Agriculture & primary industries
03/2009	Hungary	K-BOKSZ Kft.	34	Wholesaling
03/2009	Hungary	Piszkei Papír	33	Manuf. of paper and paper products
03/2009	Switzerland	ComBase (Switzerland) AG	15	Logistics, telecommunications
03/2009	Switzerland	Dangel & Co AG	13	Construction
03/2009	Netherlands	Kon. Ouwehand Rederij & visverwerking bv	na	Fishing
03/2009	Netherlands	Kroymans	na	Commerce
02/2009	South Korea	Ssangyong Motor Co Ltd	1,663	Manuf. of motor vehicles
02/2009	Germany	Edscha AG	1,108	Manuf. of parts and accessories for motor vehicles and their engines
02/2009	UK	Camden Group Services Ltd	1,022	Other land transport
02/2009	Japan	The Japan General Estate Co., Ltd.	896	Real estate activities
02/2009	Italy	Ittierre spa	443	Dressing and dyeing of fur; manuf. of articles of fur
02/2009	Finland	Incap Furniture Oy	79	Manuf. of furniture
02/2009	Canada	Anvil Range Mining Corporation	nd	Mining of metal ores
02/2009	Netherlands	Hoogevest Bouw	na	Construction
02/2009	Netherlands	Etna Vending Technology	na	Manuf. of machinery and equipment
02/2009	Netherlands	Vlasco Bouw	na	Construction
01/2009	USA	Lyondell Chemical Company	19,720	Chemicals
01/2009	Canada	Nortel Networks	8,026	Telecoms
01/2009	Germany	Qimonda AG	7,010	Manuf. of tubes and other electronic components
01/2009	USA	Visteon Corporation	6,490	Automotive suppliers
01/2009	UK	Nortel Networks uk Ltd	801	Telecommunications
01/2009	Japan	Toshin Housing Co., LTD.	740	Real estate activities
01/2009	Denmark	Atlas Shipping	423	Sea and coastal water transport
01/2009	Spain	AtlantisServiciosInmobiliariosSociedadLimitada	332	Real estate activities
01/2009	Italy	Maia Due spa	288	Wholesaling
01/2009	Denmark	Atlas Bulk Shipping	195	Sea and coastal water transport
01/2009	Czech Republic	Bohemia Crystalex Trading, a.s.	177	Wholesaling
01/2009	Sweden	Skandinaviska Metmo AB	60	Wholesaling

Source: Euler Hermes

# Major insolvencies worldwide

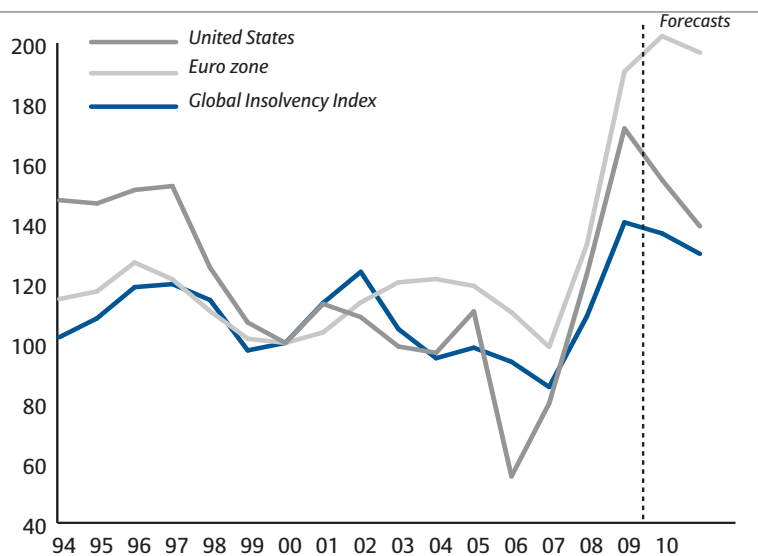
## Global insolvency index

Forecasts

Index 100 = 2000 Weighting	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	
Global Index	100.0%	113	124	105	95	98	94	85	109	140	137	130
USA	28.5%	113	109	99	97	111	56	80	123	172	154	139
Brazil	3.2%	95	122	92	62	43	20	13	11	11	9	9
Canada	3.0%	103	94	88	81	75	67	63	61	54	50	47
Japan	9.8%	102	102	87	73	69	71	75	83	82	76	75
China	8.7%	126	104	84	40	44	50	60	63	62	57	57
Australia	2.0%	127	124	134	131	142	151	146	172	177	168	159
South Korea	1.9%	79	63	79	66	51	38	34	41	30	27	28
Taiwan	0.8%	92	120	155	168	197	238	400	308	131	92	82
Hong Kong	0.4%	117	142	137	126	93	61	50	51	63	56	53
Singapore	0.4%	88	92	80	77	56	45	37	46	47	44	44
France	5.7%	100	102	114	113	114	109	115	133	149	152	145
Germany	7.3%	114	132	139	139	130	121	103	104	116	117	111
Switzerland	1.0%	94	104	118	129	124	118	112	110	136	154	147
Austria	0.8%	97	99	106	118	132	126	118	118	129	135	133
Italy	4.6%	92	92	90	97	104	88	52	64	83	94	94
Spain	3.2%	92	125	122	112	105	103	106	305	602	664	664
Greece	0.7%	87	72	60	72	73	67	63	70	81	101	111
Portugal	0.5%	109	124	155	167	106	108	128	189	245	257	257
UK	5.3%	104	104	97	92	101	107	85	112	131	119	112
Russia	3.4%	253	544	113	62	92	505	127	92	102	109	119
Netherlands	1.8%	121	139	178	186	189	166	129	130	225	218	201
Poland	1.1%	130	145	139	80	76	50	37	33	52	61	63
Belgium	1.0%	104	106	111	116	116	112	113	125	139	146	139
Sweden	1.0%	110	118	122	114	101	91	86	94	113	103	91
Norway	0.9%	100	125	146	120	99	85	80	102	140	137	130
Denmark	0.7%	132	139	142	148	141	112	136	209	322	339	311
Finland	0.5%	98	100	98	86	80	82	81	92	120	115	106
Ireland	0.5%	129	115	101	97	94	95	97	207	377	410	375
Czech Republic	0.4%	99	87	69	59	51	51	46	45	61	70	77
Hungary	0.3%	118	124	154	156	159	189	194	236	292	301	295
Slovakia	0.2%	104	125	104	82	136	142	66	48	65	62	54
Luxembourg	0.1%	126	115	110	112	114	105	105	98	118	120	113
Lithuania	0.1%	142	193	150	171	186	183	146	231	444	410	361
Latvia	0.1%	111	131	191	148	94	108	126	160	267	255	230
Estonia	0.0%	88	146	157	149	143	120	69	144	360	331	290

### Global Insolvency Index

index basis, 2000 = 100



Sources: national figures, Euler Hermes forecasts



## Insolvency rate, 2009 (\*) *insolvencies divided by the number of businesses*

	Insolvency rate*	Number of businesses (last known figures)	Number of insolvencies 2009	Sources	Frequency
USA	1.0%	5,885,784	60,837	Administrative Office of the US Courts	Quarterly
Brazil	0.0%	5,726,926	2,371	ISI Securities/SERASA	Monthly
Canada	0.2%	2,259,900	5,420	Offie of the Superintendent of Bankruptcy	Monthly
Japan	1.0%	1,515,835	15,480	Tokyo Shoko Research (TSR)	Monthly
China	0.1%	4,613,000	4,448	China Court and Sinotrust's Creditlink	Monthly
Australia	0.9%	1,699,670	14,580	Australian Securities & Investments Commission (ASIC)	Annual
South Korea	0.1%	3,268,300	1,998	Central Bank of Korea	Annual
Taiwan	0.1%	577,609	341	Judicial Yuan of the Republic of China	Monthly
Hong Kong	0.1%	889,589	573	Official Receiver's Office	Annual
Singapore	0.1%	245,596	135	Insolvency and Public Trustee's Office	Quarterly
France	2.2%	2,925,124	64,661	Euler Hermes SFAC	Monthly
Germany	0.9%	3,551,240	32,687	DeStatis	Monthly
Switzerland	1.5%	350 500	5,215	Feuille Officielle Suisse du Commerce (FOSC)	Annual
Austria	2.3%	294 099	6,902	Kreditschutzverband 1870 (KSV)	Monthly
Italy	0.2%	4,500,000	9,644	ISTAT up to 2006 (annual series)	Annual
Spain	0.1%	3,355,830	4,984	INE (Instituto Nacional de Estadística)	Quarterly
Greece	0.1%	795,550	650	National Statistical Service of Greece (EYSE), Euler Hermes	Monthly
Portugal	0.3%	1,121,472	3,815	Instituto Informador Comercial, then from EH since 2007	Monthly
UK	1.7%	2,119,660	35,185	The Insolvency Service	Monthly
Russia	0.3%	4,770,000	15,473	Supreme Court of Arbitration of the Russian Federation	Quarterly
Netherlands	1.0%	844,000	8,040	Centraal Bureau voor de Statistiek (CBS)	Monthly
Poland	0.0%	3,615,621	673	Ministry of Justice	Quarterly
Belgium	1.3%	727,137	9,421	INS (Institut national de la Statistique)	Annual
Sweden	0.8%	965,987	7,638	Statistiska Centralbyran (SCB)	Annual
Norway	1.4%	350,914	5,013	Statistik Sentralbyra (SSB)	Quarterly
Denmark	1.9%	305,319	5,710	Danmarks Statistik (DST)	Quarterly
Finland	1.2%	320,952	3,803	Finland Statistics	Quarterly
Ireland	0.8%	180,891	1,406	Department of Enterprise, Trade and Employment	Monthly
Czech Republic	0.2%	952,889	1,510	Ministry of Justice – Register of Bankrupts	Monthly
Hungary	2.1%	700,000	14,636	Euler Hermes	Annual
Slovakia	0.1%	527,486	784	Ministry of Justice	Monthly
Luxembourg	2.3%	30,220	698	Service Central de Législation (Mémorial)	Monthly
Lithuania	2.8%	65,230	1,842	Department of Enterprise Bankruptcy Management - DEBM	Monthly
Latvia	3.1%	69,863	2,149	Department of Enterprise Bankruptcy Management	Monthly
Estonia	1.7%	62,088	1,055	Department of Enterprise Bankruptcy Management	Monthly

(\*) The insolvency rate is based on the number of insolvencies in 2009 and the last known figures for the number of businesses (see sidebar entries for each country).

Sources: national sources, Euler Hermes

### Methodological note

► The insolvency rate is the number of insolvencies divided by the number of businesses. This in theory facilitates comparisons between countries. Those countries with a greater number of businesses than others risk having more insolvencies than others. However, everything else being equal, they should have the same insolvency rate. In practice, the insolvency rate shows great variation between countries. For the countries included in our study, it averages 0.8%. The rate is very nearly zero in some Mediterranean countries (such

as Spain, Portugal and Greece), but can be twice the average in countries such as France, Switzerland, Luxembourg and Austria.

► The insolvency rate is an indicator of officially recorded insolvencies. It does not necessarily reflect the level of effective insolvencies, since in a number of countries insolvencies are managed through out-of-court arrangements (see 'Our methodology', page 4). ▣

# Business insolvencies worldwide

## statistics by country

### Number of insolvencies



	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
USA	40,099	38,540	35,037	34,317	39,201	19,695	28,322	43,546	60,837	54,750	49,280
Brazil	19,956	25,707	19,237	13,019	8,931	4,192	2,721	2,243	2,371	1,940	1,840
Canada	10,371	9,458	8,838	8,118	7,517	6,742	6,293	6,164	5,420	4,980	4,690
Japan	19,164	19,087	16,255	13,679	12,998	13,245	14,091	15,646	15,480	14,300	14,100
China	9,110	7,500	6,065	2,923	3,196	3,630	4,358	4,555	4,448	4,090	4,090
Australia	10,504	10,220	11,042	10,823	11,758	12,486	12,018	14,173	14,580	13,850	13,160
South Korea	5,277	4,244	5,308	4,445	3,416	2,529	2,294	2,735	1,998	1,800	1,850
Taiwan	239	314	405	438	514	622	1,044	805	341	240	215
Hong Kong	1,066	1,292	1,248	1,147	849	552	455	468	573	510	480
Singapore	255	267	231	223	161	130	106	132	135	127	127
France	43,275	44,286	49,382	49,056	49,494	47,331	49,995	57,630	64,661	65,900	62,700
Germany	32,278	37,260	39,320	39,213	36,843	34,137	29,160	29,291	32,687	33,100	31,300
Switzerland	3,613	4,002	4,539	4,955	4,751	4,528	4,314	4,221	5,215	5,920	5,640
Austria	5,178	5,281	5,643	6,318	7,056	6,707	6,295	6,315	6,902	7,220	7,080
Italy	10,767	10,683	10,463	11,312	12,148	10,192	6,062	7,500	9,644	11,000	11,000
Spain	759	1,037	1,012	930	869	853	880	2,528	4,984	5,500	5,500
Greece	700	576	480	577	586	542	510	560	650	810	890
Portugal	1,703	1,929	2,412	2,605	1,646	1,690	2,001	2,950	3,815	4,000	4,000
UK	28,020	27,995	26,054	24,819	27,187	28,713	22,832	29,994	35,185	31,900	30,200
Russia	38,386	82,341	17,081	9,390	13,963	76,447	19,238	13,916	15,473	16,560	18,050
Netherlands	4,330	4,963	6,386	6,648	6,780	5,941	4,602	4,635	8,040	7,800	7,210
Poland	1,674	1,863	1,798	1,025	984	648	480	430	673	780	810
Belgium	7,062	7,171	7,565	7,910	7,877	7,617	7,677	8,472	9,421	9,900	9,450
Sweden	7,433	7,930	8,237	7,649	6,784	6,160	5,792	6,298	7,638	6,920	6,120
Norway	3,562	4,473	5,223	4,297	3,540	3,032	2,845	3,637	5,013	4,910	4,640
Denmark	2,329	2,469	2,506	2,620	2,495	1,987	2,401	3,709	5,710	6,000	5,500
Finland	3,113	3,170	3,101	2,745	2,547	2,587	2,560	2,916	3,803	3,650	3,360
Ireland	483	428	377	361	349	354	363	773	1,406	1,530	1,400
Czech Republic	2,473	2,155	1,728	1,460	1,282	1,278	1,148	1,110	1,510	1,750	1,910
Hungary	5,919	6,204	7,718	7,840	7,983	9,447	9,723	11,804	14,636	15,100	14,800
Slovak Republic	1,263	1,510	1,262	990	1,645	1,723	800	582	784	750	650
Luxembourg	750	681	653	665	675	621	623	583	698	710	670
Lithuania	590	799	621	709	772	759	606	957	1,842	1,700	1,500
Latvia	891	1,052	1,534	1,193	758	872	1,010	1,289	2,149	2,050	1,850
Estonia	257	427	459	436	419	352	202	423	1,055	970	850

Sources: national figures, Euler Hermes forecasts

## Annual change in insolvencies

Forecasts

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
USA	13%	-4%	-9%	-2%	14%	-50%	44%	54%	40%	-10%	-10%
Brazil	-5%	29%	-25%	-32%	-31%	-53%	-35%	-18%	6%	-18%	-5%
Canada	3%	-9%	-7%	-8%	-7%	-10%	-7%	-2%	-12%	-8%	-6%
Japan	2%	0%	-15%	-16%	-5%	2%	6%	11%	-1%	-8%	-1%
China	26%	-18%	-19%	-52%	9%	14%	20%	5%	-2%	-8%	0%
Australia	27%	-3%	8%	-2%	9%	6%	-4%	18%	3%	-5%	-5%
South Korea	-21%	-20%	25%	-16%	-23%	-26%	-9%	19%	-27%	-10%	3%
Taiwan	-8%	31%	29%	8%	17%	21%	68%	-23%	-58%	-30%	-10%
Hong Kong	17%	21%	-3%	-8%	-26%	-35%	-18%	3%	22%	-11%	-6%
Singapore	-12%	5%	-13%	-3%	-28%	-19%	-18%	25%	2%	-6%	0%
France	0%	2%	12%	-1%	1%	-4%	6%	15%	12%	2%	-5%
Germany	14%	15%	6%	0%	-6%	-7%	-15%	0%	12%	1%	-5%
Switzerland	-6%	11%	13%	9%	-4%	-5%	-5%	-2%	24%	14%	-5%
Austria	-3%	2%	7%	12%	12%	-5%	-6%	0%	9%	5%	-2%
Italy	-8%	-1%	-2%	8%	7%	-16%	-41%	24%	29%	14%	0%
Spain	-8%	37%	-2%	-8%	-7%	-2%	3%	187%	97%	10%	0%
Greece	-13%	-18%	-17%	20%	2%	-8%	-6%	10%	16%	25%	10%
Portugal	9%	13%	25%	8%	-37%	3%	18%	47%	29%	5%	0%
UK	4%	0%	-7%	-5%	10%	6%	-20%	31%	17%	-9%	-5%
Russia	153%	115%	-79%	-45%	49%	447%	-75%	-28%	11%	7%	9%
Netherlands	21%	15%	29%	4%	2%	-12%	-23%	1%	73%	-3%	-8%
Poland	30%	11%	-3%	-43%	-4%	-34%	-26%	-10%	57%	16%	4%
Belgium	4%	2%	5%	5%	0%	-3%	1%	10%	11%	5%	-5%
Sweden	10%	7%	4%	-7%	-11%	-9%	-6%	9%	21%	-9%	-12%
Norway	0%	26%	17%	-18%	-18%	-14%	-6%	28%	38%	-2%	-5%
Denmark	32%	6%	1%	5%	-5%	-20%	21%	54%	54%	5%	-8%
Finland	-2%	2%	-2%	-11%	-7%	2%	-1%	14%	30%	-4%	-8%
Ireland	29%	-11%	-12%	-4%	-3%	1%	3%	113%	82%	9%	-8%
Czech Republic	-1%	-13%	-20%	-16%	-12%	0%	-10%	-3%	36%	16%	9%
Hungary	18%	5%	24%	2%	2%	18%	3%	21%	24%	3%	-2%
Slovakia	4%	20%	-16%	-22%	66%	5%	-54%	-27%	35%	-4%	-13%
Luxembourg	26%	-9%	-4%	2%	2%	-8%	0%	-6%	20%	2%	-6%
Lithuania	42%	35%	-22%	14%	9%	-2%	-20%	58%	92%	-8%	-12%
Latvia	11%	18%	46%	-22%	-36%	15%	16%	28%	67%	-5%	-10%
Estonia	-12%	66%	7%	-5%	-4%	-16%	-43%	109%	149%	-8%	-12%

Sources: national figures, Euler Hermes forecasts



# Regulations, by country

## Americas

### United States

The bankruptcy laws of the United States are set forth in the Bankruptcy Code (1978, Title 11, United States Code) and the Federal Rules of Bankruptcy Procedure. There are several different procedural routes to take, but those known as Chapter 7 and Chapter 11 are most commonly utilised by private businesses.

► Chapter 7 – Liquidation: This provides for company liquidation. It is often utilised in the event that a Chapter 11 reorganisation fails.

> Chapter 11 – Reorganisation: The main objective here is to attempt to turn the business around and thus avoid liquidation. Companies may voluntarily file for Chapter 11 protection and need not establish that they have stopped making payments to creditors or that they are insolvent. Under this procedure, company/debtors are often able to negotiate more favourable terms with creditors. A Chapter 11 Bankruptcy may also be launched by the creditors, in which case the company/debtor has the right to argue before the bankruptcy court that it should not be placed in Chapter 11. Under both forms of Chapter 11, the directors retain control, and the company is protected from the collection efforts of the creditors, via an automatic stay, whereby all attempts to collect debts are suspended. The company, now known as the "debtor in possession," retains possession of its assets and continues to run the business but is under the supervision of the judge. Apart from certain exceptions, the company/debtor usually is not placed under the supervision of a court-appointed administrator.

► In April 2005, the US Congress adopted the Bankruptcy Abuse Prevention and Consumer Protection Act, effective October 2005, which made several changes to the Bankruptcy Code. The new law places greater limitations on debtors and attempts to make it harder to cancel debt. Businesses under Chapter 11 protection will have a maximum of 18 months to present a plan for reorganisation and debt rescheduling. After this period, the creditors may present their own plan and submit it to the court. In addition, limitations are imposed on extraordinary payments in the form of retention bonuses, severance pay, and certain other payments. ■

### Canada

Amendments to the Bankruptcy and Insolvency Act (BIA) and the Companies' Creditors Arrangement Act (CCAA) came into force on 18 September 2009.

► Interim Financing: The Court will now officially have the power to grant a security (over existing securities) in favor of a lender providing new interim financing to an insolvent business that intends to file a proposal under the BIA or a plan under the CCAA. The Courts will no longer have to rely on their inherent jurisdiction to grant such relief.

Affected secured creditors must receive notice of the application for priority funding and the court must consider a specified list of factors.

► Unpaid Suppliers' Rights: Unpaid suppliers have 15 days after the date of bankruptcy or the appointment of a receiver to submit a written demand for goods delivered to the purchaser or the purchaser's agent within 30 days before the bankruptcy or appointment of the receiver.

► Wage claims: Division I proposals under the BIA and plans under the CCAA must provide for payment of wage claims immediately after Court approval/sanction of the proposal/plan to employees (and former employees). The amounts paid must at least equal the priority amounts that they would be qualified to receive if the employer had become bankrupt.

► Pension Protection: Division I proposals and CCAA plans that do not provide for the payment of unpaid pension contributions are not to be approved by the Court unless the parties to the pension plan have entered into an agreement approved by the relevant pension regulator respecting payment of those amounts.

► Collective Agreements: Any collective agreement between an employer and a union shall remain in force unless the agreement is amended by agreement of the parties. There is no provision for the Court to disclaim, terminate or revise a collective agreement. If the collective agreement is amended by agreement of the parties, the union has a claim as an unsecured creditor for the value of concessions granted.

► CCAA Oversight: The Office of the Superintendent of Bankruptcy will maintain a public registry of CCAA filings, will receive and keep a record of all complaints regarding the conduct of monitors, and will have supervisory powers in relation to the conduct of monitors under the CCAA. Monitors under the CCAA must be licensed trustees and the company's auditor may not be the monitor except with permission of the Court. ■

### Brazil

► On February 9, 2005, Brazilian president Luiz Inacio Lula da Silva signed new bankruptcy legislation (Law no. 11.101/05), replacing the legislation of 1945. The new law facilitates the court-ordered or out-of-court rescue of businesses, giving priority to creditors and thus facilitating repayment to banks.

► Out-of-court restructuring requires court approval to have effect. The debtor has to call a meeting of its creditors to negotiate a restructuring plan. The plan must then be approved by the court and by creditors representing a minimum of 60% of the business's debts.

► In the case of court-ordered restructuring, the debtor has to present a restructuring plan to the court, to be submitted to a committee of its creditors, with the judge acting as the principal intermediary. The plan may be approved, amended or rejected by the committee at the meeting. In the event the restructuring plan is rejected, the debtor must declare bankruptcy. If the business is placed in bankruptcy, the law creates a new hierarchy of creditors, giving priority to financial establishments ahead of employees (labour claims are limited to the amount of 150 minimum monthly salaries), and ahead of federal tax claims.

► Importantly, the new law gives better protection to creditors, while also improving the process of the sale of assets. As already mentioned, the new law took effect in June 2005, and since then, the number of bankruptcy filings has dropped steadily. ■

## Asia Pacific

### Japan

► Liquidation proceedings are covered in the *Hasan-ho* or Bankruptcy Act (Law No. 75, 2004) and Company Act (Law No. 86, 2005). Rehabilitation proceedings are stipulated in the Corporate Reorganization Act (Law No. 154, 2002) and Civil Rehabilitation Act (Law No. 225, 1999). The Company Act became effective in May 2006, replacing all the chapters concerning businesses in the Commercial Code (Law No. 48, 1899). In general, a business is deemed to be insolvent when it files for one of the above-mentioned proceedings.

► *Hasan-ho* or Bankruptcy Act: the most standard liquidation law. Under the supervision of the court, the trustee

collects the property of the debtor and sells it and distributes the proceeds to the creditors. Both debtor and creditor can file for this proceeding.

► Special liquidation under the Company Act: the court takes an active role in a company already under some kind of a liquidation process. This is mainly used by companies that are winding up their subsidiaries.

► Corporate Reorganization Act: this is specially reserved to turnaround *Kabushiki Kaisha* (public limited companies). Under the supervision of the court, the trustee will run the company. This can be filed either by the debtor or a creditor (the latter needs to hold receivables equivalent to at least 10% of the capital) or shareholder (who needs to hold more than 10% of the shares issued). Lien and priority interests will be frozen during the reorganization period. ► Civil Rehabilitation Act: this is another option aiming to turn around a business. Any type of business regardless of its size, and even an individual, can file for this. Both debtor and creditor can file, but shareholders cannot. In most cases, the existing management stays to run the business. Lien and priority interests can be exercised during the rehabilitation period. ■

### China

► Up to the end of May 2007, China's bankruptcy praxis was based on a number of elements: the 1986 Law of the People's Republic of China on Enterprise Bankruptcy (LEB) applicable only to state-owned enterprise (SOEs); the amended 19th chapter of the Code of Civil Procedure: Debt Repayment Order in Legal Entity Bankruptcy; and a number of judicial interpretations by the Supreme People's Court and a series of measures and other regulations implemented by the State Council.

► From June 1, 2007, this is replaced by new bankruptcy legislation closer to international standards, adopted on August 27, 2006 by the Standing Committee of the National People's Congress (NPC), after 12 years of debate.

This text, which comprises 12 sections and 136 articles, is a unified code applicable to every type of enterprise – public or private, Chinese or foreign owned, including financial institutions.

► The new law provides three possible methods of dealing with insolvency:

1. Bankruptcy – the sale of all the business's assets and liquidation in order to repay creditors
2. Reorganisation – the creditors or the investors (representing a majority shareholding) of the company may petition the court to request the restructuring of the debtor's business
3. Arrangement – debtors and creditors may come to an agreement on the settlement of debts.

The law gives preference to creditor repayment over payment of laid-off employees, and sets out this order of preference of the various creditors: (1) preferential creditors; (2) expenditure related to the insolvency procedure; administration fees and sales costs; (3) debts incurred on the behalf of creditors in common; (4) unpaid employee wages and social security payments; (5) tax debts; (6) ordinary debts to non-preferential creditors.

The new law made an exception for around 2,000 SOEs announcing bankruptcy before June 2007, allowing them to enter the policy-arranged bankruptcy procedure (where they can be closed down with the aid of government bailouts and could pay laid-off workers first). ■

### South Korea

The South Korean insolvency system has three types of proceeding on insolvent companies, which are governed by two laws, the Corporate Restructuring Promotion Act and Act on Rehabilitation and Bankruptcy of Debtors (a.k.a., Consolidated Insolvency Act). They are 1) Workout programme, 2) Corporate reorganisation proceeding (court receivership), and 3) Bankruptcy proceeding:

► The workout programme aims for voluntary corporate restructuring in accordance with market principles. It can be demanded by either debtors or creditors (only banking institutions), and covers those companies with bank loans of more than KRW50bn. Once the workout programme starts, various measures including debt restructuring and cash injection by creditors follow to normalise the debtor. If normalisation seems unachievable, creditors can ask liquidation or the other two remaining proceedings. Debtors also can pursue different proceedings if their application for workout is denied. Workout programme does not involve trade payables.

► Corporate reorganisation proceedings (court receivership, *Hoe-Saeng-Jeol-Cha*) gives an opportunity for rehabilitation to an insolvent company through court protection. This proceeding can be demanded by the debtor, the creditor or the shareholders, and begins when a court approves the reorganisation plan filed by the company. Under these proceedings, the president of a company can remain as an administrator unless his/her inappropriate acts result in financial distress, creditors demand a third party administrator, or in some other cases. Compulsory bankruptcy is possible only when a reorganisation period ends after the plan is approved. This is analogous to a proceeding under the Chapter 11 of the US Bankruptcy Code.

► Bankruptcy proceedings (*Pa-San*) covers the liquidation and distribution of assets of a company when it falls into insolvency, suspends all payment, or its entire debts exceed total assets. The ultimate purpose of bankruptcy is to reimburse creditors by distributing the liquidated assets of debtors, and it can be demanded by either debtors or creditors. This is analogous to a proceeding under Chapter 7 of the US Bankruptcy Code. ■

### Taiwan

The liquidation of public limited companies is governed by the Company Act (last amended 2009.05.27), under Section 12, Liquidation (Article 322-356).

► Sub-section 1 – In case of liquidation of a company, the directors shall become its liquidators, unless otherwise provided for in this Act or in the Articles of Incorporation or where other persons are appointed by a meeting of shareholders.

If no liquidator can be determined pursuant to the aforesaid provisions, the court may appoint a liquidator upon the application of any interested person.

► Sub-section 2 – Where circumstances exist which apparently impede the execution of liquidation, the court may, upon the application of any creditor or liquidator or shareholder or ex officio, order the company to institute a process of special liquidation. The same shall apply where there is suspicion that the liabilities of the company exceed assets; but in such a case, only the liquidators may file an application.

Provisions concerning the suspension of procedures of bankruptcy, composition and compulsory execution as specified in Article 294 shall apply mutatis mutandis to the special liquidation. ■

### Hong Kong

► The aim of the Companies Ordinance and Companies (Winding-up) Rules (Chapter 32) is to create a legal framework for the reorganisation of an insolvent company prior to any eventual liquidation.

The law provides for two stages: the petition in bankruptcy and the actual liquidation.

► The business can voluntarily file for winding-up and declare itself bankrupt in the event of financial difficulties. Its creditors may also petition to the court and force the business to do so in similar circumstances.

► Court-ordered restructuring is implemented after a voluntary petition in bankruptcy or one ordered by the court. The aim here is to reorganise the business and find a solution avoiding liquidation. The petition in bankruptcy takes effect at the point when the business or its creditors complete an official 'winding-up petition' form.

► If the bankruptcy petition is ordered by the court, then the Official Receiver is considered the administrator of the liquidation. However, the Receiver can appoint another person to act in his place in managing the assets and liabilities of the insolvent company. ■

#### Singapore

► The closing of a business can arise out of a petition in bankruptcy or a forced liquidation. These two procedures mainly involve the creditors and shareholders, who appoint a liquidator, who must evaluate the assets of the business. The actions of the liquidator are governed by Singapore's Companies Act.

► Voluntary winding-up: a business can be voluntarily wound up by its members or its creditors. A member's voluntary winding-up is only possible if the business's assets allow it to pay its debts in full within 12 months of the commencement of the winding-up proceedings. The creditors' voluntary winding-up is possible if the business is unable to meet its debts. In both cases, those initiating the procedure need to sign a resolution declaring the petition in bankruptcy, and they need to appoint an independent liquidator.

► Compulsory winding-up: under Section 253 of the Companies Act (Chapter 50), the business itself, creditors, shareholders, liquidator (or a court-appointed manager or the Ministry of Justice) may present a petition for winding-up to the High Court (the liquidation dates from this point). The Singapore High Court will rule that a business is insolvent if its total liabilities exceed its total assets. Section 254 (1) of the Companies Act states the conditions under which the court may wind up a business. Section 254 (2) sets out the specific situations where a business shall be deemed to be unable to pay its debts. ■

#### France

##### France

► France's Business Safeguard Act (*Loi de Sauvegarde des Entreprises*) of July 26, 2005 entered into force on January 1, 2006 and was modified by the Ordinance of December 18, 2008, which came into force on February 15, 2009. The aim is to foster the prevention of and handling of company difficulties when they first appear, and to ease and widen access to the procedure to a greater number of businesses.

► Prevention procedures: ad hoc mediation (*mandat ad hoc*) and conciliation (*conciliation*), reserved for any company experiencing difficulties of a nature to compromise continued operations, but not having been in cessation of payments for more than 45 days.

► Judicial procedures:

- The safeguard procedure (*sauvegarde*) or judicial restructuring without cessation of payments, for any company that demonstrates problems liable to force it to cease payments. For companies with turnover of more than 20 million euros or 150 employees, it establishes two committees of creditors, one for credit institutions and another for supplier creditors, and a plan is drawn up for restructuring following an observation period of a maximum of six months, renewable one time only. The debtor can request the safeguard procedure be converted to judicial reorganisation if it deems the adoption of a safeguard plan not to be possible.

- Judicial reorganisation (*redressement judiciaire*) is open to any company in cessation of payments (unable to meet its current liabilities with its available funds) for a (renewable) period of six months. The procedure leads to a plan for restructuring the business and setting up committees (as under the safeguard procedure).

- Judicial liquidation (*liquidation judiciaire*) is applicable to debtors that have ceased payments and are unable to continue running the business. Simplified liquidation (*liquidation simplifiée*) is a new procedure for businesses with less than six employees in the six months prior to the judgement, turnover of less than 750,000 euros and no real estate holdings. ■

#### Austria-Germany-Switzerland

##### Germany

► Reforms to the new Insolvency Code (*Insolvenzordnung*, or *InsO*) in place since January 1, 1999 came into force on December 1, 2001. Initial provisions of the Code had in practice led to problems, especially in the case of bankrupt small companies and self-employed persons who came under personal insolvency procedures. One important reform is that such small businesses will no longer be subject to the procedure for personal bankruptcy, but will once again go through the standard insolvency procedure set out for companies. Exceptions to this rule will only be made under special circumstances. On first view, this reform would appear to lead to a statistical shift towards a greater number of insolvencies. In fact, however, it has not had a significant effect on the published figures for corporate insolvencies, since the Federal Statistical Office has since 1999 already adjusted the figures to reflect this change.

► The reforms to the Insolvency Code have had, however, a substantial impact on official insolvency statistics, especially on the number of private insolvencies registered. What plays a significant role here is the fact that a debtor can now file for insolvency proceedings on the basis of "mitigating circumstances" (i.e., the registration threshold has been lowered by a considerable margin). The latter has led to substantially more insolvency proceedings as from the beginning of 2002 than would have been the case under the former legal provisions.

► Besides this, however, the statistical registration of corporate insolvencies has been affected by new legal rules, which particularly make it difficult to define the line of demarcation between insolvencies of private individuals and those of small traders and self-employed persons. It is also necessary to take into account the fact that the mitigating conditions referred to above not only affect private insolvencies, but also those of small traders. From the start of 2002, this makes it difficult to make comparisons of small traders and the self-employed with those of previous years. ■

##### Switzerland

► Swiss bankruptcy legislation is based on the Federal Law of April 11, 1889 on the pursuit of debts and bankruptcies (LP), revised in part in 1994. The legislative changes, notably concerning composition proceedings, came into force on January 1, 1997. The law applies to all individual or company debtors, i.e., natural or legal persons involved in business and listed on the Register of Commerce. The law provides for several distinct procedures: the Concordat drafted in 1994 for companies; amicable settlement of debts for the reorganisation of the financial position of private persons; and special rules applying, for instance, to insurance companies, banks and others. Creditors must submit a requisition form to the cantonal Office des Poursuites calling to begin proceedings in pursuit of a debtor. The Office sends the debtor an order to pay within 20 days before proceedings for seizure or bankruptcy. Should payment fail to be made, the Office drafts a non-compliance document, and the

bankruptcy judge declares bankruptcy. This judgement is sent to the Office des Poursuites, which administers the bankruptcy and proceeds with the liquidation.

► The Concordat offers debtors a breathing space. It is granted to them on request, without prior consultation with creditors. Debtors gain protection against proceedings or bankruptcy for a period of up to 12 months, and even 24 months in complicated cases. The debtor can declare itself insolvent and request the judge to grant protection against proceedings, and after examination the judge delivers a decision either to reorganise the business or else conduct an orderly liquidation. In the event of judicial reorganisation, a qualified majority of creditors must give their consent. The judge appoints a commissioner to assist the debtor in reaching agreement with the creditors. The director of the business in cessation of payments remains in place, under the control of a commissioner. He may not, however, dispose of assets or conduct financial transactions.

► Liquidation: liquidation and the division of assets consist of realising the assets of the bankrupt entity and distributing the proceeds to creditors according to the nature and scale of what they are owed. ■

##### Austria

► With the Insolvency Amendment Act 2010 which comes into force on 1 July 2010, the existing dual system of insolvency law for companies – *Ausgleichsordnung* (composition) and *Konkursordnung* (bankruptcy) – will be replaced by the uniform *Insolvenzordnung 2010* (IO – Insolvency Code). The purpose of the reform is to increase the likelihood of a successful reorganization.

► As an incentive to initiate the newly introduced *Sanierungsverfahren* (reorganisation proceedings) in good time, the debtor is offered the option of *Eigenverwaltung* (self-administration). Thus he may continue to operate his business under the supervision of a *Sanierungsverwalter* (administrator). However, in this specification the *Sanierungsverfahren* requires a special application. A finance plan must be submitted, showing how continuation of the business is to be financed, and how availability of funds required under the so-called *Sanierungsplan* (reorganisation plan) is assured. The plan must provide for a minimum dividend of 30% within two years.

► If self-administration is not granted because disadvantages for creditors are to be expected, it is still an option to continue the restructuring procedure as *Sanierungsverfahren mit Fremdverwaltung*, where the debtor loses the rights of administration and disposition of his assets to an *Insolvenzverwalter* (receiver). Of course, the debtor may apply for this option right from the start. Similar to the former *Zwangsausgleich* (compulsory scheme of arrangement) the reorganisation plan then must provide for a minimum dividend of 20% within two years. It is believed that this will continue to be the principal method of restructuring. If a simple majority accepts the reorganisation plan, the debtor is relieved of the remaining obligations, provided the terms of the plan are complied with.

► Any other insolvency proceedings will be operated as *Konkursverfahren* (bankruptcy). This winding-up procedure is also regulated by the Insolvency Code. However in general the rules of the former *Konkursordnung* have been adopted.

Creditors will be faced with some important new rules protecting the debtor's efforts of restructuring. Neither the opening of the insolvency proceedings nor delay of the debtor prior to the opening will allow terminating a contract for cause. This rule applies to a maximum period of 180 days, provided that the debtor's business is continued. Furthermore, access to goods which were delivered under retention of title may be refused for a period of up to 180 days. ■

#### Mediterranean and Africa

##### Italy

The Italian Bankruptcy Law – Royal Decree No 267 of 16 March 1942 – underwent an organic reform by Law 80/2005 and was further amended in 2006, 2007 and 2009 in order to place more emphasis on debt restructuring as an alternative to liquidation.

An individual entrepreneur or a company (excluding public body), which is in a state of insolvency, is declared bankrupt by the court of the place where the enterprise has its main office. A bankruptcy procedure consists of the liquidation of the bankrupt's assets and subsequent integral or partial paying off of creditors. This procedure, however, does not apply to entrepreneurs who, in the three years preceding the date of filing the bankruptcy petition, did not have assets for over three hundred thousand euros, did not obtain average gross earnings of the last three years for a total amount of over two hundred thousand euros, and did not hold liabilities, even if not expired, for a total amount of five hundred thousand euros.

► The restructuring procedures are arrangements with creditors reached during (*concordato fallimentare*) or before the bankruptcy procedure (deed of arrangement, *concordato preventivo*) through a court application accompanied by, among other things, a report drafted by an eligible professional. The entrepreneur in a 'state of crisis' (meaning by this, not necessarily insolvency) may propose an arrangement with creditors on the basis of a plan, which may include a range of interventions (dismissive or protective) in order to avoid bankruptcy and continue operating the business. Foremost among these is the rescheduling of debts and satisfaction of claims (even partially) by any form, including disposal of assets, assumption, or other transactions.

► In the arrangement during the bankruptcy procedure, the proposal may be submitted by one or more creditors, by a third party or by the bankrupt company (in this case only one year after bankruptcy). Such proposals may provide for the subdivision of creditors into classes; different treatments for creditors belonging to different classes, indicating the reason for such differentiation; the restructuring of debts and satisfaction of claims by any form.

The reform has substantially changed the role of the Creditors' Committee, with the aim of allowing creditors to take a more active role at every stage of the insolvency procedure.

The pre-bankruptcy schemes of arrangement, which occur partially out-of-court and partially in-court for the approval, are the debt restructuring agreement (*accordo di ristrutturazione dei debiti*), in which debtors may reach an agreement with creditors representing at least 60% of all claims – the remaining debts, not included in the agreement, must be fully satisfied – and the assessed restructuring plan (*piano attestato di risanamento*) suitable to serve the purposes of 'rehabilitation liability' and 'financial balance'. Prompted by the urgent situation involving the Alitalia airline company's insolvency, in 2008 the Italian Government proposed a set of rules that integrate and amend the special insolvency procedure (*amministrazione straordinaria delle grandi imprese in crisi*, already updated in 2003 in the wake of Parmalat's financial collapse) to solve massive crises of large (at least 500 employees, during the one-year preceding its insolvency, and accrued debts of at least Euro 300 million) companies' insolvencies. The compulsory administrative liquidation (*liquidazione coatta amministrativa*) applies to certain types of businesses, i.e., insurance companies, credit institutions and co-operative societies. ■

##### Spain

The law regarding insolvencies and bankruptcies, the Ley Concursal of July 9, 2003, came into force in September 2004, with important consequences for businesses. The principal improvements of the law are the following:

► Creation of new courts specialised in commercial law and reduction in the delays for lodging the claim. As a consequence of



# Regulations, by country

this, the insolvency process will take less time.

- Definition of two different kinds of *concurso* (insolvency): *Culpable* (culpable) or *voluntario* (voluntary) with different consequences for the managers of the business.
- Implementation of new proceedings of insolvency. If a company has debts for three months with the tax or social security authorities, it will be considered insolvent and it shall voluntarily apply for insolvency.
- Toughening of the rules related to liability on the part of the managers of the company.

The aim of the new law is to supersede the former regulation and to implement a new process that will allow businesses to cooperate with their creditors in order to survive a period of cash crisis. Nevertheless, the new law tries also to protect the interests of the creditors, toughening the rules on managerial liability and forcing the businesses to voluntarily apply for insolvency before their financial situation becomes too serious.

Modifications have been recently introduced to encourage agreements with creditors prior to a declaration of insolvency, in order to speed up official procedures and reduce their costs, and to accelerate the process of liquidation when a business is not viable. ■

## Greece

The bankruptcy procedure in Greece has been reformed by the Law No. 3588/2007, in force since 16/09/2007. This Law, having taken into consideration the relevant procedures of the German, French and Spanish Law, abolishes the previous bankruptcy Law, as well as the legal framework of restructuring and winding-up of companies, determined by Law 1892/90 (Art. 44, 45, 46, 46a and 46b), and introduces faster and more flexible procedures.

The main principles of the new Law are the following:

- First priority is to give the debtor the opportunity to restructure its business and avoid being declared bankrupt. The Law encourages the adoption of the 'Re-organisation Plan' of the enterprise, in order to keep it in operation. The plan can be filed before the Court by the debtor or the trustee in a brief time limit, it is evaluated by the Court and its acceptance or rejection is decided by the creditors.
- In case the attempt to re-organise the enterprise fails, the bankruptcy procedure is faster and there are control mechanisms securing the immediate liquidation of the bankruptcy property as well as its distribution to the creditors. The Law settles the immediate beginning of the liquidation after the end of the verification of the claims, as well as the fast hearing of all the bankruptcy cases.
- The liquidation procedure of the assets is more transparent and there is a new organ in the bankruptcy procedure, the 'committee of creditors', consisting of three members, each member elected from one category of creditors. This organ follows the bankruptcy procedure, assists the trustee in his work and secures the control of the procedure for the entity of the creditors.
- The institution of 'reconciliation procedure' is introduced. The aim of this procedure is to reach a settlement between the debtor and its creditors concerning all the debts, and avoid the business being declared bankrupt.
- A simpler and faster bankruptcy procedure is introduced regarding 'small bankruptcies' in cases where the total value of the debtor's assets does not exceed EUR 100,000, providing there is no real estate. ■

## Portugal

► Portugal's new Insolvency Code was published on March 18, 2004 (decree law 53/2004), replacing the 1993 code of special procedures and of business recovery and bankruptcies. The 2004 law was applied gradually over 2005 and 2006, becoming 'fully operational' in 2007. The major change introduced was in replacing the provisional judgement (which led to some months or even years before a final judgement was made) by an immediate judgement declaring insolvency (*falência*). For companies in default of payment, this could bring an increase in the number of insolvencies.

► There is now a single procedure for restructuring or liquidating an insolvent business, namely the insolvency request. Under this procedure, the court-appointed administrator is the sole person competent to declare insolvency, replacing the court-appointed manager and the liquidator. His decision to so pronounce is assessed beforehand by the judge, who will pronounce on the determination of insolvency of the business. Also, once the judgement has been pronounced on the declaration of insolvency, the decision to restructure or judicially liquidate the business will go to the creditors' commission (although this is optional in so-called simple cases) as well as to the creditors' assembly, at which the business's employees are represented.

► In cases of fraudulent insolvency, the penalties can be as high as 6 years' imprisonment. If the business is judged to be completely insolvent, the process can be terminated with the pronouncement of a declaration of insolvency. In the opposite case, the pronouncement of a declaration of insolvency allows the creditors' assembly to meet within a period ranging from 45 to 75 days following the judgement. They can thus choose whether to restructure or liquidate the business. Their decision is based on the report drafted by the court-appointed administrator including an inventory of the business's assets, the provisional list of creditors and a report on the business's economic situation. ■

## Northern Europe

### United Kingdom

Insolvency legislation falls under the Insolvency Acts of 1986 and 2000, and the Enterprise Act of 2002. The Enterprise Act introduced more emphasis on rescuing businesses. There are four main types of company insolvency:

- Administration: the main aim of this procedure is to rescue or restructure the company, in order to achieve a better outcome for creditors than might be achieved by liquidation. The Administrator is court-appointed and has a duty to act on behalf of all creditors.
- Administrative receivership: an Administrative Receiver is appointed by the holder of a floating charge and acts on behalf of the charge holder, rather than all creditors. This procedure can only be used for floating charges invoked prior to September 15, 2003 when the Enterprise Act was introduced. Exceptionally, some more complex financial transactions, such as those relating to public service companies, still allow for administrative receiverships in all cases.
- Company voluntary arrangement: this is the only procedure that allows a debtor to retain legal control over the company, under the supervision of an Insolvency Practitioner. This is a collective procedure between the company and its creditors, which generally requires that part of the debts are relinquished in order to allow the company to continue operations. Agreement on the part of the creditors is required.
- Liquidation: this procedure is most commonly used when a company cannot be rescued. The company ceases trading and its assets are realised. The liquidator can be appointed by the company, its shareholders or creditors. The liquidator acts on behalf

of all creditors and has powers of investigation extending to the conduct of the directors of the business.

Other cases of insolvency:

- Bankruptcy: this applies to individuals who are insolvent. An individual can avoid bankruptcy by entering into an individual voluntary arrangement with his or her creditors, which involves a proposal to repay the debts. In the absence of an individual voluntary arrangement, the courts have the power to declare bankruptcy at the request of the individual or his creditors. All the bankrupt person's assets then fall under the control of a trustee (the Official Receiver or an Insolvency Practitioner). ■

## Sweden

► *Kankurs* is the term used for bankruptcy. A business may be declared bankrupt due to insolvency if it cannot meet its liabilities to creditors. The company is not insolvent if its funds and assets are sufficient to repay the creditors.

► *Företagsrekonstruktion* is the term for public business reorganisation. The procedure is set out by law and influenced by US Chapter 11. The procedure is started by a petition to court for reorganisation of the business, made by either the debtor or a creditor. An administrator (*rekonstruktör*) is appointed to examine the debtor's financial situation. The reorganisation always includes a proposal. If all creditors do not accept this proposal, the debtor may apply to the court, requesting that public composition proceedings begin. Legal arrangement (*offentligt accord*) can first be decided under a public business reorganisation procedure.

► *Akkord* is an agreement between creditors and the debtor to avoid bankruptcy and continue the business in difficulty as a going concern. It can be established by an agreement between both parties regarding the amount of liabilities due to creditors. To avoid bankruptcy, the dividend to creditors has to be at least 25%.

► The intention of the new bankruptcy legislation in Sweden, with full effect from 1 January 2005, was to increase dividends in bankruptcies for unsecured creditors. One additional motive was to improve conditions prior to successful reconstructions in Sweden. Some critical voices have been raised however, regarding the unwanted side effects of the 'credit crunch' directed to small and medium sized companies. The credit crunch consists basically of goods financing (leasing and factoring) being offered instead of current account financing and of wider use of guarantees, when banks are dealing with smaller companies. ■

## Norway

Business insolvency covers several terms:

- *Kankurs*: this is the term used for bankruptcy. A business may be declared bankrupt due to insolvency if it cannot meet its liabilities to creditors. The company is not insolvent if the funds and assets are sufficient to repay its creditors. The business can be declared bankrupt by the creditors or by the business itself (*oppbud*).
- *Tvangsoppløsning*: This is the term for liquidation ordered by the court in the event that the business cannot meet its formal obligations.
- *Akkord*: This is a legal arrangement (*tvangsakkord*) or agreement between the creditors and the debtor (*frivillig akkord*/*frivillig gjeldsordning*) to avoid bankruptcy and continue the insolvent business as a going concern. It requires the written agreement of both parties on the amount of liabilities due to creditors. A deadline is established, and the arrangement takes effect for all creditors, who are treated equally. To avoid bankruptcy, the return to the creditors has to be at least 25% in the legal arrangement (*tvangsakkord*). ■

## Denmark

► There are three procedures relating to bankruptcy:

► *Betalingsstandsning*: this is a suspension of payments to avoid bankruptcy while protecting creditors. During the payment suspension period, the debtor company attempts to find ways to continue as a going concern and is protected from all legal actions from its creditors. A date is fixed to separate transactions and important decisions prior to the payment suspension. If the business cannot continue as a going concern, the payment suspension date is established as the date when the bankruptcy takes effect. During the payment suspension, creditors have no influence on the procedure.

► *Akkord*: this is an arrangement or agreement between the creditors and the debtor to avoid bankruptcy and continue the insolvent business as a going concern. It is effected via an agreement signed by both sides regarding the amount of liabilities due to creditors. A deadline is established, and the arrangement takes effect for all creditors, who are treated equally.

► *Kankurs*: this is bankruptcy under the Danish Bankruptcy Act (*Kankursloven*). It may be declared by the debtor company or by a creditor. The procedure results in the liquidation of the debtor business. An administrator is appointed by the creditor and takes control of the company, with a view to selling the assets at the highest possible price and paying the funds raised to creditors in their order of priority according to Danish bankruptcy law. ■

## Finland

► Bankruptcy (*konkurssi*) is regulated by the Bankruptcy Act (120/2004). A company can be declared bankrupt if it is unable to meet its financial commitments to its creditors. The procedure is initiated at the request of either the creditor or the debtor. It ends with the liquidation of the debtor's business and the sale of its assets at the best price. The proceeds of this sale are then paid over to the creditors in their order of priority.

► Judicial reorganisation (*yrittysaneeraus*) is governed by the Restructuring of Enterprise Act (47/1193). The aim is to avoid bankruptcy by dealing with insolvent businesses and safeguard their ability to continue operating. The procedure begins with a request to the court on the part of either a creditor or debtor. The court appoints an administrator, who is responsible for examining the debtor's financial situation and causes of its insolvency. During this process, the debtor only retains limited possession of its assets. The administrator proposes a reorganisation and recovery plan for the creditors, which generally includes a rescheduling of payments and a major reduction in non-preferential debts. The court then approves this plan if accepted by a sufficient majority of creditors. ■

## Netherlands

The Dutch bankruptcy code has not changed fundamentally over more than 110 years of its existence. Recently, however, legal experts presented a draft for an entirely new code to the Ministry of Justice. Whether this code will become the law and whether this will happen within the near future is not certain yet.

The main goal behind many of the proposals is improving the ability to successfully restructure companies that experience financial difficulties.

► The current suspension of payment proceedings (*surséance van betaling*) seems to be inefficient as a restructuring tool. Often restructurings now take place outside the *surséance van betaling* with the help of the bank. Only in cases where the bank

is not willing to cooperate will the company opt for the formal procedures, which are then likely not to be successful.

- ▶ In the new code it would be up to the trustee (and not the debtor) to decide whether the company should be liquidated or whether there is a chance of restructuring the company after insolvency proceedings have already been opened. It will no longer be possible for the company to opt for either the bankruptcy proceedings or suspension of payment proceedings. Hopefully this will encourage the management of companies who are experiencing or anticipating financial difficulties to open insolvency proceedings at an early stage when there are still reasonable prospects of a turnaround.
- ▶ Another change would be the following: under current law a provision terminating a contract upon the counterparty's insolvency is valid and enforceable under Dutch law. Under the new code, it is proposed, it will no longer be possible to terminate certain specific contracts upon a counterparty insolvency during a cooling-off period on the grounds that the insolvent party has not performed its pre-insolvency payment obligations under the contract.
- ▶ Finally the new code would make it easier to realise a composition plan outside of formal insolvency proceedings. ■

#### Belgium

- ▶ **Faillite (bankruptcy):** this applies to 'any business that has consistently ceased payment and whose credit is weak'. It is defined in the Act of August 8, 1997 (effective from January 1, 1998), which cancels and replaces the Act of April 18, 1851, and establishes a procedure for the liquidation of a company. Bankruptcies are pronounced by the commercial court with jurisdiction for the business, largely based on the statement of the trader to the court registry (in the month when payments ceased) or on the basis of statements from one or more creditors or from the public prosecutor. Bankruptcies can be carried out via a 'short procedure' (once the minutes of the debtor's verification have been finalised) if the bankruptcy is not contested or if the asset value is not material. Alternatively, the bankruptcy may be via a 'long procedure' if the bankruptcy is liable to prejudice the rights of the bankrupt party or his creditors. The process must be completed within three years following the court's pronouncement of bankruptcy, or with a court decision on any 'reason to excuse' the bankrupt party, which could cancel all existing liabilities from the bankruptcy.
- ▶ The Act of July 17, 1997 relating to *concordat judiciaire* (legal arrangement), however, is now superseded by the Act of January 31, 2009. This is intended to avoid bankrupting an insolvent business, to protect it from its creditors (with a suspension of payments), and to allow businesses that so request to remain in operation. The debtor needs to specify if it wishes to reach agreement with all of its creditors or with its major creditors, or for the transfer of all or part of the business. The court protects the debtor from its creditors over an 'observation period' running for a maximum of six months (renewable), during which time a reorganisation plan must be agreed by the majority of creditors and approved by the court (with a view to a final suspension), which can last up to five years. ■

#### Poland

- ▶ On October 1, 2003, Poland's new Bankruptcy and Corporate Recovery law came into force. Under the new law, the subjects of a bankruptcy and/or debt composition can be sole traders as well as other businesses. It is still the case, however, that state-owned businesses and public bodies, hospitals and universities cannot be declared bankrupt. A request for a declaration of insolvency can be made by the debtor or one of its creditors. This can be done in the event of non-payment of outstanding debt and or when due or when the liabilities due exceed the value of a debtor's assets.
  - ▶ **Bankruptcy:** the new law sets out two possibilities: declaring bankruptcy with liquidation of the debtor's assets, and bankruptcy with the option of debt settlement. Protected creditors have the right to receive the proceeds from the sales of secured or mortgaged assets, less disposal costs. The request for bankruptcy will be withdrawn by the court in the following cases: overdue payments of the debtor are not older than three months and the amount of the liabilities does not exceed 10% of the balance sheet sum, or if the debtor's assets are not sufficient to cover the cost of the bankruptcy procedure.
  - ▶ The law also contains provisions for the rehabilitation of a debtor. The rehabilitation procedure is only available to entrepreneurs threatened with bankruptcy, whose economic and financial situation could rapidly lead to default of payment. A restructuring plan must be drawn up and confirmed by the court, allowing for settlement to the creditors.
  - ▶ On March 31, 2009, new rules came into force concerning on insolvencies of natural persons who may request court-ordered bankruptcy.
- New technical modalities have been recently introduced to simplify the procedures: these notably concern creditors committees, and the maintenance of court supervision over the debtor-in-possession exercising management of the bankrupt entity. ■

#### Czech Republic

- The Czech Republic's new Insolvency Act (Act No. 182/2006 Coll. on bankruptcies and settlements) came into force on January 1, 2007. From that time it was updated 3 times by the Acts No. 108/2007 Coll. 296/2007 Coll and 362/2007 Coll. It strengthens the position of creditors, limits the incentives for prolonged bankruptcy procedures and offers viable businesses the possibility of continuing in operation. The new law contains a number of innovations. It aims at satisfying creditors more quickly, strengthening their rights and favouring the continuation of the debtor's businesses. The law sets out new procedures.
- ▶ The procedure for a business 'threatened with bankruptcy': here, the conditions under which it is possible to launch a bankruptcy procedure are defined, even in the case where the bankruptcy is only looming.
  - ▶ **Moratorium:** this is similar to the already-existing procedure for placing a debtor under protection.
  - ▶ **'Minor bankruptcy':** this is a new introduction, which can only be ordered if the debtor is a natural person and not an artificial person or if the debtor's turnover for the last financial year does not exceed CZK 2 million and if, in addition, there are no more than 50 creditors. The advantage here is in providing a considerably simplified procedure.
  - ▶ The new law creates an Insolvency Register as the public register kept with the Ministry of Justice. The law sets out new methods for dealing with insolvencies: reorganisation, partial payment of debts, and other special modalities. The court is only called upon to intervene in cases where the above methods have been ruled out. During the reorganisation period, the debtor may of course continue its commercial activity, but only in conformity with the reorganisation plan. The procedure for partial debt settlement only applies to individuals, and the debtor undertakes to pay part of his debt to the creditor (set at a minimum of 30%, unless the creditor agrees otherwise), and the balance of the debt is cancelled.
  - ▶ New improvements came in force on January 1, 2008 with the electronic registration and publication of dossiers. ■

#### Hungary

- ▶ **Liquidation procedures (under Act no. XLIX of 1991)**  
If the debtor does not contest the claim within 15 days after the due date of the invoices, and the claim remains unsettled despite the dunning letter delivered to the debtor, the creditor has the possibility to initiate insolvency proceeding in order to collect the

debt. The debtor can only prevent the order of insolvency if the debt gets fully settled. If the creditor and the debtor reach an agreement, the process can rest for up to 6 months. The insolvency proceeding is an efficient means in the inventory of debt collection, albeit once the court delivers the final order of the debtor's insolvency there is only a slight chance to recover even a small part of the total amount.

- ▶ **Rehabilitation (administration) procedure (under Act no. XLIX of 1991)**  
Administration: its aim is to reorganize the indebted company to prevent it from getting insolvent. The action can only be initiated by the debtor itself, and it results automatically in a 90-day moratorium, which can be prolonged in case it is agreed by the majority of the creditors. The composition agreement must be concluded within the afore-mentioned 90 days by the majority of both the secured and unsecured creditors. In general, the creditors are forced to accept reschedulings for several years and to waive a considerable part of their original claims. Pursuant to the new insolvency act, there are two significant changes, the request for Administration can be filed till the declaration of the insolvency of the first instance and in case there is no composition agreement concluded within 90 days, the insolvency proceeding is automatically launched.
- ▶ **Order for payment procedures-execution (1952, Law no. III, Sections 313-323).** Mainly used in regard to claims against natural persons and pecuniary claims. The debtor can contest the claim within 15 days after the receipt of the order for payment issued by the court in which case the process turns into a lengthy and costly civil proceeding. If the debtor does not contest the claim and does not settle the debt, the order becomes final and enforceable, thus execution can follow so as to collect the outstanding debt. ■

#### Slovakia

- ▶ The new law, the Act on Bankruptcy and Restructuring (based on the Czechoslovak Federal Republic's Bankruptcy and Composition Act of 1991) came into force on January 1, 2006. Its aim is to make the entire process more effective. But in practice it brings complications for creditors. After the new law came into effect, the number of bankruptcies has dramatically decreased. This was the result of not of fewer insolvencies but of the inability of creditors to force debtors into bankruptcy.
- ▶ The Act distinguishes two possible treatments of insolvency:
  - Bankruptcy (the sale of all the assets of the company and its liquidation)
 Bankruptcy can be declared by the debtor or by creditors, which is rare and more complicated. There must be 2 creditors with written debt agreements signed by debtor and approved by a notary or with written approval from the court. As a result, bankruptcy is are usually declared by debtors. The law is also very weak on the debtor's obligations, and debtors are very rarely prosecuted for breaking these agreements.
- Restructuring (the debtor proposes a settlement to the creditors; the court decides to approve or reject it; the business continues to operate and satisfies its creditors according to a restructuring plan).
- ▶ The new act is more favourable to creditors. It does not mean, however, that the debtor goes without any protection. It encourages entrepreneurs to choose to restructure the business rather than liquidate it through a bankruptcy proceeding. But still we see only around 10 restructurings yearly.
- ▶ This act is accompanied by a law concerning the bankruptcy trustees. This sets out the exact rules applicable to trustees, who are now chosen by lot from a list of trustees. Before, the court was responsible for this choice. Also, trustees are required to pass an examination. Under the new legislation, bankruptcy also applies to natural persons. This reflects the current situation, in which ease of access to personal loans has brought an explosion in the levels of personal debt. ■

#### Lithuania

- In the Lithuania there are two distinct procedures for legal insolvency: bankruptcy and reorganization.
- ▶ Bankruptcy proceedings are covered in Enterprise Bankruptcy Law (No. IX-216, 20 March 2001). It applies to all enterprises, public companies, banks and credit unions registered in Lithuania. There are three distinct procedures for legal insolvency – bankruptcy, simplified bankruptcy process, extrajudicial bankruptcy process.
  - The request for declaring a company bankrupt can be issued by creditor, owner, or the head of the enterprise administration. After the procedure of repaying of the debts is ended, the enterprise is liquidated.
  - The simplified bankruptcy procedure is useful if the debtor assets are not sufficient to cover the legal costs also the bankruptcy procedure costs. The process may not last longer than one year from the effective date of the order to apply the simplified bankruptcy process. During the simplified bankruptcy process, the bankruptcy procedure of liquidation shall be applied.
  - The extrajudicial bankruptcy procedure may be applied out of court, provided that no action has been brought in court in which claims, including claims connected with employment relationship, have been entered against the enterprise, also if no execution is levied on the enterprise under the writs of execution issued by the courts or other institutions. This procedure is applied without court permission and without court assistance. The creditors' meeting has full and sole rights to administer all bankruptcy procedure strictly according to the bankruptcy law.
  - ▶ Reorganisation procedures are stipulated in the Law on Restructuring of Enterprises (No. IX-218, 20 March 2001). The restructuring procedures can be used for operating companies which may have financial difficulties and want to avoid bankruptcy. Such companies may decide to start a reorganisation procedure that leads to debt settlement with all creditors. The settlement is confirmed by the court but decided by creditors and the debtor. ■

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