

99066002058002, 99066002058002

Insolvency proceedings Implementation of corporate insolvency

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/121361803/L100002>

Modul	Sachverhalt
Leistungsschlüssel	99066002058002, 99066002058002
Leistungsbezeichnung I	Insolvency proceedings Implementation of corporate insolvency
Leistungsbezeichnung II	Implementation of standard insolvency proceedings for a (former) company
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Nordrhein-Westfalen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Insolvenz (066)
Verrichtungskennung	Durchführung (058)

Modul	Sachverhalt
SDG-Informationsbereich	Insolvenzverfahren und Liquidation von Unternehmen
Lagen Portalverbund	Sanierung und Insolvenz (2160300)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	11.05.2021
Fachlich freigegeben durch	Ministry of Justice of the State of North Rhine-Westphalia
Handlungsgrundlage	<ul style="list-style-type: none"> • Insolvency Code (InsO) • Insolvency Remuneration Ordinance (InsVV) https://www.gesetze-im-internet.de/insol/ https://www.gesetze-im-internet.de/insv/ https://www.gesetze-im-internet.de/insol/ https://www.gesetze-im-internet.de/insv/
Teaser	If a company no longer has enough money available, in some cases (corporate) insolvency proceedings can or must be carried out on the company's assets.
Volltext	<p>If a company no longer has enough money available or will soon no longer have any money, in some cases (corporate) insolvency proceedings can or must be conducted over the company's assets.</p> <p>Corporate insolvency proceedings can be considered for both legal entities (AG, GmbH, etc.) and natural persons (e.g. sole traders).</p> <p>In the case of natural persons, it is important to check whether this person is to be classified as a consumer under insolvency law, for example in cases where the business operations have been discontinued and possibly all the requirements for consumer insolvency proceedings are met (read also Conducting consumer insolvency proceedings).</p> <p>Consumer insolvency proceedings apply to all natural persons</p> <ul style="list-style-type: none"> • who do not (currently) exercise or have not (in the past) exercised any self-employed economic activity • who have exercised an independent economic activity

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in the past, but whose financial circumstances are manageable and against whom there are no claims from employment relationships.

- The financial circumstances are only deemed to be manageable if the debtor has fewer than 20 creditors at the time the application to open insolvency proceedings is filed.
- Claims from employment relationships are, in particular, claims from the tax authorities for wage tax and claims from social insurance institutions for contributions from former employees of the debtor.

To check the correct type of proceedings, you should (if your company has already been discontinued) prove to the insolvency court that you are not classified as a consumer. To this end, you can provide suitable documents to substantiate the above-mentioned claims (e.g. current clear account statement from the tax office, certificate from the social insurance provider regarding the nature of the arrears).

Legal entities (AG, GmbH, etc.) should make absolutely sure that a person authorized to sign for the company has signed the written application for the opening of insolvency proceedings.

The following applies with regard to authorizations:

In the case of

- legal entities (e.g. corporations or registered associations) are any legal representative (managing director, board member), in the event of a lack of management, any shareholder,
- in the case of a stock corporation or a cooperative, each member of the supervisory board,
- in the case of companies without legal personality (e.g. OHG or KG), each personally liable partner individually

is entitled to file the application on behalf of the legal entity, even if he or she is otherwise only authorized to represent the legal entity jointly with other persons.

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Note: If a shareholder of a legal entity or members of the supervisory board submit the application, they must also provide credible evidence of lack of management. Special rules apply in the case of an own application due to imminent insolvency.

If there is an admissible application for corporate insolvency proceedings, the insolvency court will usually appoint an expert and, in some cases, a provisional insolvency administrator.

The insolvency court must also appoint a provisional creditors' committee if your company met at least two of the following three criteria in the previous financial year:

- At least 6,000,000 euros in total assets after deduction of a deficit reported on the assets side as defined in Section 268 (3) HGB;
- at least EUR 12,000,000 in sales revenue in the twelve months prior to the balance sheet date;
- an annual average of at least fifty employees.

Furthermore, the insolvency court examines whether insolvency proceedings can be opened (read more about this in Insolvency proceedings opening order).

The court primarily examines whether there are grounds for opening insolvency proceedings and whether the financing of the insolvency proceedings is secured. As the debtor or legal representative of the debtor company, you are obliged to cooperate fully.

Reasons for the opening of insolvency proceedings can apply to both own and third-party applications

- Insolvency (§ 17 InsO) and
- (only for legal entities) over-indebtedness (Section 18 InsO)

can be.

In the case of a self-application, the grounds for opening may also be

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- imminent insolvency (§ 19 InsO)

can be considered.

The financing of the insolvency proceedings is secured if the future insolvency estate is likely to be able to cover the costs of the insolvency proceedings.

If a natural person applies for insolvency themselves and does not have sufficient assets to finance the insolvency proceedings, they can, under certain circumstances, apply for a deferral of the costs of the proceedings (read Deferral of procedural costs in insolvency proceedings).

In these cases, you should also consider filing an application for discharge of residual debt (for more information, see Residual debt discharge proceedings)

Once the insolvency court has completed its examinations and determined that the application is admissible and well-founded, and it is likely that the insolvency proceedings will be financed by the insolvency estate or secured by a deferral of procedural costs, the insolvency proceedings will be opened by order.

What happens to your company (if operations have not yet been discontinued) after the opening of insolvency proceedings always depends on the circumstances of the individual case. Conceivable options include

- Discontinuation of business operations and realization of assets
- Restructuring of the company through an insolvency plan (read more about this in Insolvency plan as a restructuring instrument)
- For natural persons: Release of the business operations from the insolvency estate with the consequence that you have to put the insolvency creditors in the same position as if you had entered into an appropriate employment relationship (as a salaried employee) by making payments to the trustee within a certain period of time.

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Erforderliche Unterlagen	Application for the opening of insolvency proceedings and, if applicable, further documents
Voraussetzungen	<ul style="list-style-type: none"> • Applicant (in the case of an own application) or debtor (in the case of a third-party application) is not classified as a consumer (under insolvency law). • Existence of a reason for opening insolvency proceedings Insolvency (§ 17 InsO) Imminent insolvency (Section 18 InsO) possibly over-indebtedness (§ 19 InsO) • Future insolvency assets can probably finance the costs of the insolvency proceedings (or [in the case of natural persons] deferral of the costs of the proceedings is granted upon application)
Kosten	Insolvency proceedings are subject to costs. Court fees are incurred, the amount of which depends on the value of the insolvency estate in each individual case (read: Costs of insolvency proceedings). If certain conditions are met, it is possible to apply for a deferral of the costs of the proceedings (for more information, see: Deferral of procedural costs in insolvency proceedings).
Verfahrensablauf	
Bearbeitungsdauer	
Frist	
weiterführende Informationen	https://www.justiz.nrw.de/BS/formulare/insolvenz/eroeffnung_insolvenzverfahren/index.php
Hinweise	If you intend to carry out a debt settlement with the help of an insolvency plan (more on this under Insolvency plan as a restructuring instrument), you should already state this in the application, indicating the main features of the plan. You should start working out the details of the insolvency plan as early as possible. You should seek the advice and assistance of experts with special knowledge of insolvency law.
Rechtsbehelf	

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Kurztext	<ul style="list-style-type: none"> • Implementation of insolvency proceedings • Regular insolvency of a business operation
Ansprechpunkt	
Zuständige Stelle	
Formulare	https://www.justiz.nrw.de/BS/formulare/insolvenz/eroeffnung_insolvenzverfahren/index.php
Ursprungsportal	Insolvenzverfahren Durchführung Unternehmensinsolvenz, Insolvency proceedings Implementation of corporate insolvency