

RESTRUCTURING & INSOLVENCY

ANGOLAN STATUTE OF THE RECOVERY
OR INSOLVENCY ADMINISTRATOR

ASP EXPERTISE

August 2022



With the enactment of Law 13/21, of 10 May on the Legal Framework for Corporate Restructuring and Insolvency - which institutionalized the roles of the Extrajudicial Recovery Administrator, the Judicial Administrator, and the Insolvency Administrator - it became necessary regulate these professional categories responsible for implementing and supervising the acts related to the recovery or insolvency proceedings; hence, the Statute of the Recovery or Insolvency Administrator enacted by Law 20/22 of 18 July which entered into force on the date of its publication.

Purpose and scope of the Statute of the Recovery or Insolvency Administrator

The purpose of the Statute of the Recovery or Insolvency Administrator is to determine the powers and rules governing the performance of the Recovery and Insolvency Administrators' duties as well as those of the entity responsible for monitoring and supervising them, namely, the National Supervisory Board of the Recovery or Insolvency Judicial Administrator ("the National Supervisory Board").

The Statute applies to all natural or legal persons who act as Recovery or Insolvency Administrators, pursuant to the Law.

Requirements for performing the Duties

In the case of a natural person, the following are requirements for the performance of the duties of a Recovering or Insolvency Administrator:

- a) be a suitable professional;
- b) hold a minimum of 5 years' proven professional experience, preferably in the fields of law, economics, business administration, accounting, or management;
- c) hold a certificate to perform the duties, published by the National Supervisory Board, which requires that he or she be a national citizen or, if foreign, that the Angolan Recovery or Insolvency Administrator be allowed to perform the same duties in the former's country of origin, on the basis of reciprocity.

In the case of a legal person, the following are requirements for the performance of the duties of a Recovering or Insolvency Administrator:

- a) be a suitable entity;
- b) be formally incorporated;
- c) perform an activity in any of the fields listed above for natural persons;

- d) have among its staff and on an exclusive basis, a professional certified by the National Supervisory Board.

To obtain this certificate it is also necessary that the legal person in question be a legal person incorporated and existing under Angolan law, or, if it is a foreign legal person, that Angolan companies are allowed to exercise the same duties in the relevant country.

Recovery or Insolvency Administrator Admission Procedures

Admission to the position of Recovery or Insolvency Administrator comprises the following stages: (i) launching of the relevant tender (ii) enrollment; (iii) training; and finally, (iv) the admission exam, the results of which are published within 30 days.

Upon publication of the exams' final list of results, the National Supervisory Board is responsible for certifying the admitted Administrators, within 20 days.

Appointment

The Judicial or Insolvency Administrator is appointed by the relevant court via draw from the official list of Administrators published on the National Supervisory Board's website. When out-of-court reorganizations are at stake, the choice of the Recovery Administrator is made by the parties with reference to the professionals on that list.

Performance of Duties and Impediments

The Recovery or Insolvency Administrator performs its duties during the recovery or insolvency proceedings.

Notwithstanding the foregoing, the Recovery or Insolvency Administrator may, at any time, request to be released from its duties and substituted in the event of any impediment or serious inability to perform those duties.



The Recovery or Insolvency Administrator is prevented from performing its duties if (i) it performs or has performed relevant duties in an entity where it has been appointed for the management of the recovery or insolvency proceedings in the two years prior to its commencement; (ii) when it is a creditor or debtor in the proceedings; (iii) when it is a member of a corporate body or manager of a company that pursues business activities similar to those of the company for which it has been appointed; (iv) when the court determines the existence of a conflict of interest.

Principles, Rules of Ethics and Integrity

In the performance of the duties, the Recovery or Insolvency Administrator shall avoid any limitation of independence due to personal interests or external pressure and, to this end, shall be guided by the principles of integrity, suitability, competence, confidentiality, fairness, loyalty, transparency, economy and responsibility. insolvency under which it has been appointed.

Remuneration

The debtor or the insolvent estate shall bear the remuneration of the Recovery or Insolvency Administrator, respectively. The criteria and form of remuneration are those provided for in the Legal Framework for Corporate Restructuring and Insolvency but may not exceed 5% of the amount owed to the participating creditors, in the case of judicial recovery, or the value of the assets liquidated, in the case of insolvency.

National Supervisory Board

It is the entity responsible for monitoring and supervising the activity of the Judicial Recovery or Insolvency Administrators and is composed of 5 members: (i) one member appointed by the Superior Council of the Judiciary, who acts as Chairman; (ii) one member appointed by the Superior Council of the Judiciary of the Public Prosecutor's Office; (iii) one member appointed by the Executive Branch; (iv) one member appointed by the Angolan Bar Association, and (v) one member appointed by the Accountants and Expert Accountants of the Angolan Professional Association.

The National Supervisory Board is responsible for: promoting the recruitment of the Judicial Administrators:

- a) publishing the official list of Administrators;
- b) keeping a database with the control of the proceedings in which each Judicial Administrator will perform its duties;
- c) supervising the performance of the Judicial Administrators through periodic interactions with the courts that appoint them;
- d) applying sanctions to the Judicial Administrators;
- e) approving the necessary instructions for the performance of the duties of the Recovery or Insolvency Judicial Administrators;
- f) approving the code of Ethics and Integrity of the Recovery or Insolvency Judicial Administrators.

Contacts



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