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## Bottlenecks in the exchange of information by and between creditors and bankruptcy trustees

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### Preface

Improvement of efficiency and transparency are increasingly viewed as an important issue in the field of liquidating insolvent companies. Trustees and also the supervising Court officials (Supervisory Judges) have been focusing on limiting the amount of time spent on the administration of claims filed by creditors of the insolvent companies. Trustees must abide by more rules in that respect, but an increase in time spent is not a viable option.

Note: Bankruptcy trustees are independent lawyers (*advocaten*) appointed by the Court in The Netherlands. Trustees and their aides are paid on the basis of time spent. Creditors must file their claims with the trustee and thus, the time spent on the related administration incurs revenue for the trustee. Trustees are paid from the bankrupt estates and have the highest ranking preference. An increase in revenue for the trustee will therefore result in a decrease of dividends to the creditors.

Various instruments have made the process of administering claims more efficient. Nevertheless, major part of the work is time consuming, manual labor. This white paper will clarify various aspects that determine the time spent on the claims administration. Also, it will describe techniques to

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eliminate bottlenecks. Finally, this paper describes the way in which most of the work regarding the claims administration can be outsourced to the creditors themselves through the web-based software application of *ClaimsAgent.nl*.

## Complexity of the claims administration

In each and every insolvency proceedings, the creditors must file their claims with the trustee and the trustee is obligated to keep a list of claims *and* to render confirmation to the creditors that their claims are listed. This exchange of information leads to complex situations in the day-to-day practice. Examples:

*All* mail to the insolvent business is diverted to the office of the trustee by the postal authorities. Hence, useless mail such as product catalogues, mailings with business offers and the like are received by the trustee. All mail has to be opened and verified, because it may contain a claim that has to be listed.

Note: this is the practice in The Netherlands.

The creditors often provide insufficient information regarding their claims to the trustee. As a result, the trustee will have to request additional information to the creditors. E.g.: when filing a secured claim or retention of ownership, the creditor must provide proof. VAT must be specified separately from the claim. This kind of information is often lacking.

Furthermore, creditors are not only filing claims by themselves. Bailiffs and debt collecting offices are also involved. Sometimes several of these parties submit the same claim simultaneously and every so often their calculations differ.

Claims can reach the trustee by a variety of means: by letter, fax or e-mail. Most trustees administer multiple insolvencies at the same time. All claims must be administered in the relevant file. Mistakes are being made: claims are not listed at all or in the wrong file. Further down the road this may cause damages. If a creditor is not notified of a claims admission meeting or is left out when a distribution is being made, these damages may be severe.

The creditors need confirmation that their claims are listed in order to request a tax return for VAT that has been paid. If the trustee waits too long, the creditors will write again or call the trustee's office. This will further increase time consumption.

The constant stream of paper and information is difficult to administer. Opening all of the mail, sorting out relevant documents, putting the claims on the creditors' lists, printing and mailing the confirmations to the creditors, all are mainly done by hand and are consuming a lot of time. The administration is lagging behind almost all of the time. Can this work be simplified and made easy?

The costs related to the claims administration are high. How can these costs be diminished?

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## Software for the administration of the insolvent estate / creditors' lists

Trustees and their aides use a variety of tools. Apart from practical operational means (delegation of tasks to juniors), software applications are increasingly used.

Lawyers / trustees mostly use Microsoft Office as administrative software. Especially Office Excel provides a practical basis to set up lists of claims, make mailings and administer the bankrupt estates. Various participants have created elaborate Excel models to keep record of all relevant financial information. These models provide output for the reports that must be publicized by the trustees.

Special software for the administration of insolvencies can be licensed, but the possibilities are few and decreasing. These offer better overall usability than Excel, but most of this software is also using Microsoft Excel.

These software packages are reliable and create databases where the data is separated from the software itself. New releases of the software can be installed easily without having to re-enter all the data.

The cost of using Excel is limited and sold once as OEM software with a new PC. The software license fee of special packages is higher and will be invoiced yearly on the basis of the number of users.

## Limitations in the software with respect to the administration of claims

Although administrative software without doubt increases the efficiency of winding up a bankrupt estate, it does not limit the time spent on the claims administration in a measurable way. The administration becomes easier to handle, but the workload itself as described above does not decrease in a significant way. Letters keep arriving, faxes and e-mails are pouring in with insufficient details. The number of mistakes with listing claims and filing of related documents are not reduced.

What the software is lacking is the automation of the exchange of information by and between the creditors and the trustees. In other words: the available software is not of an interactive nature. All data and information rendered by the creditor to the trustee must be registered again by the trustee. The trustee must actively initiate all actions based on the registered data.

Combining software tools with the interactivity of the Internet however, enables very cost-efficient exchange of information by and between the trustee and the creditors. Time and money spent on managing the claims administration can be dramatically reduced, whereas the quality and reusability of the data are strongly improved.

## De software service of *ClaimsAgent.nl*

*ClaimsAgent.nl* offers a software service, specifically designed for the exchange of data and information between creditors and trustees in insolvency proceedings. As the service is web-based, automated communication is made possible without the need for any party to install software on their

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own computers. The trustees open an insolvency file in their online accounts on a case by case basis. The creditors submit their claims and related evidence directly in the online administration of the trustee through the interface of *CrediteurenLijst.nl* (meaning: *creditorslist*). All documents and data are filed electronically (electronic invoices or scanned documents). The software thereupon sends out automated confirmations of claims submitted to the creditors. Workload and paper handling are reduced almost completely.

Through this process, the claims administration is outsourced to the creditors themselves. The trustee does not have to pay much attention. The trustee receives automatic notification however, in the event that a creditor invokes a security interest (e.g. pledge or mortgage, retention of ownership).

In case the insolvency will result in a distribution of dividends to the creditors, the trustee can invite the creditors to the claims admission meeting without effort through the use of the application and keep them informed of the status of their claims in the verification process (e.g. acknowledged or disputed). The trustee and the creditor can even 'chat' with one another with respect to the individual claims. Verification of the claims can be done online on the basis of the electronic evidence submitted.

The system is being hosted by a professional Internet Service Provider with ongoing effort to secure the system against abuse and to protect the privacy of its users. Even though the data and information with respect to the creditors and their claims may ultimately become part of the public domain, strict confidentiality is being observed. The discretion of the trustees regarding the publication of such details shall be respected.

The fee for the use of the system is transparent: a fixed amount of EUR 2,50 per submitted claim is charged to the insolvent estate (as estate claim ranking as expenses of the trustee). In case the assets of the estate are insufficient to pay these fees, the use of the software is free.

### ***ClaimsAgent.nl* has proven its value in practice**

In several districts trustees are using the system with the approval of Supervisory Judges. Tens of thousands of creditors have submitted their claims online. Almost all of them are enthusiastic.