Internet revolution in bankruptcy information in Russia reduces risks for creditors

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Many countries are turning to technology to increase the level of transparency and access to information for creditors and other stakeholders in bankruptcy procedures. In the European Union, impending changes to the Regulation (EC) No 1346/2000 on insolvency proceedings will make it obligatory for Member States to publish key information on insolvency proceedings in electronic insolvency registers. This topical article examines the reasons behind the recent introduction of a Russian internet portal for information on bankruptcy proceedings, and its many benefits for stakeholders.

The Unified Federal Register of Bankruptcy Information (the Bankruptcy Register), through which virtually all existing information about bankruptcy proceedings in Russia is disclosed, celebrated on 1 April 2014 the three-year anniversary of its full-scale launch. On average 100,000 new reports are released through the portal annually, making it possible to follow all stages of about 35,000 bankruptcy cases that are underway at any given moment, from the filing of a lawsuit to the sale of assets in electronic auctions.

What came before?

The Bankruptcy Law of 2002 required all insolvency office holders (known in Russia as arbitration managers) to publish key information about the course of bankruptcy proceedings in official publications designated by the government of the Russian Federation. The national daily newspaper Kommersant has been such an official publication since 2005 and bankruptcy notices make up three-quarters of its Saturday issues.

This approach of disclosing information was found to be unsatisfactory for a number of reasons. First, the depth of information disclosure was extremely low, since in the modern world it is difficult to imagine a manager reading through 1,200 notices in small print in search of their counterparty or an interesting asset to acquire. Second, information disclosure experts noted the fairly low level of reliability – about 40 per cent of notices contained false information (mistakes in debtors’ names, their identification codes or addresses), and about 10 per cent of mistakes prevented the correct identification of debtors (cases where names, identification codes and locations did not match at all). Third, the high cost of publication in print media led to the use of abbreviations, which caused further reading challenges. Publishing notices exclusively in print publications made searching and structuring information much more difficult.

Given the drawbacks of disclosure and dissemination of information in hard copy, the Ministry of Economic Development decided in 2008 to develop an electronic portal for the disclosure of bankruptcy information via the internet. Changes were made to the Bankruptcy Law that set out the basic principles for the establishment of the Bankruptcy Register (Law No. 296-FZ dated 30 December 2008). The Interfax Information Services
Group developed the portal’s software and also became its operator when the portal was launched in 2011.

How does the Russian portal compare with other national portals?

Similar principles for the disclosure of bankruptcy information via an internet portal appear to be used in Australia, but in Russia information is published directly by the source of the information (the insolvency office holder). The other key difference between the Russian and Australian systems is that in Australia a fee is payable for obtaining information from the register, whereas in Russia bankruptcy information can be accessed free of charge.

In a number of countries, such as Latvia, insolvency administrators provide information to authorised government institutions, or companies designated by them, for subsequent publication on the internet. In this case, the government-authorised institution essentially acts as an intermediary for the publication of bankruptcy notices and can review (correct) notices while overseeing their conversion to electronic form for public access.

Yet there are fundamental differences between the Russian portal and other prominent foreign online systems for disclosure of bankruptcy information. In the Czech Republic, for example, information about bankruptcies is disclosed by the courts, which, in addition to their normal judicial functions, maintain a register of legal entities that includes bankruptcy information. Such an option was not possible for Russia since Russian courts do not have registration powers in relation to companies and do not have any duties other than in respect of judicial proceedings.

Portal roll-out

When designing the Russian portal, the following strategic objectives were set for its creation and operation:

- ensuring public accuracy and legal relevance of information
- minimising fraud risks by identifying those persons disclosing information as well as debtors
- prompt disclosure of information
- future reduction of the costs of bankruptcy proceedings by completely transitioning to electronic disclosure and abandoning disclosure in hard copy form.

These objectives were achieved by ensuring integration with other federal resources – in particular the Unified State Register of Legal Entities and Individual Entrepreneurs, the system for disclosure of information about court orders and the Unified State Register of Self-Regulating Organizations of Arbitration Managers – as well as by introducing enhanced digital signatures of notices using certified encryption tools.

Disclosure of information through the portal made it possible to ensure the publication of notices within a very short timeframe (no later than the next working day after payment for publication, and with prepayment immediately upon submission of notices). The publication price was determined by calculating the cost of maintaining the Bankruptcy Register and amounted to 640 roubles per notice, regardless of the type and size of the notice. This was just a fraction of the cost of print publication.

The biggest challenge in developing and rolling out the portal was the implementation of enhanced digital signatures, because when the portal was initially developed the use of such signatures was essentially limited to tax reporting. Consequently, almost no software or organisational solutions for digital signatures were available on the market and they had to be developed for the first time within the context of the project. The Russian Union of Self-Regulating Organizations of Arbitration Managers, a voluntary organisation for self-regulating associations of insolvency practitioners, provided invaluable assistance in organising effective training for arbitration managers on how to use the portal.

The introduction of enhanced digital signature tools ensured that information on the portal was of legal relevance, since such signatures not only make it possible to identify the exact
person who placed the notice, but also ensures the integrity and inalterability of the placed notice.

The main software for the portal took three years (2008-10) to develop and the portal was launched commercially on 1 April 2011. In its first year of operation, about 70 per cent of registered arbitration managers posted information on the portal on more than 18,000 debtors.

**Types of information disclosed**

At present most of the content on the portal consists of information that is disclosed by arbitration managers over the course of bankruptcy proceedings.

The Bankruptcy Law requires arbitration managers to post the following information on the Bankruptcy Register:

- key court orders concerning a bankruptcy case – implementation of proceedings, appointment and dismissal of arbitration managers, cessation of bankruptcy proceedings
- asset sales – announcements of sales, results of sales
- the assets of debtors – results of asset inventories, reports of asset appraisals
- meetings with creditors and the results of those meetings.

The portal is also used to disclose: (i) information about arbitration managers and the self-regulating organisations to which they belong; (ii) information about the sales process on electronic trading platforms (from the publication of an application to conducting a sale to the publication of sales results); and (iii) information about court orders issued in bankruptcy cases.

Under bankruptcy legislation, the first publication on the portal is supposed to be made by the arbitration manager within 10 days of commencement of the first proceeding in the bankruptcy case, and subsequent publications must be posted at key stages in the bankruptcy, including on: finalisation of the inventory and appraisal of assets, organisation of asset sales, and convening of creditors’ meetings. Essentially, all material information about the bankruptcy case is made accessible to creditors and other interested parties.

The types of content published on the portal make it possible to obtain sufficient information to monitor any given bankruptcy case by studying key notices on the case.

In the near future there are also plans to introduce the publication of arbitration managers’ reports on the results of bankruptcy proceedings (Law No. 189-FZ dated 2 July 2013 calls for mandatory publication of such reports as of 1 July 2014).

In addition to arbitration managers and their self-regulating organisations, information on the portal is disclosed by the Central Bank of Russia (CBR) when it relates to lending and other financial organisations. The CBR publishes information about the revocation of such organisations’ operating licences, details of insurance payments to the depositors of such organisations and the financial condition of the organisations, among other things.

**Obtaining information from the portal**

Russian bankruptcy legislation provides fairly short timeframes for carrying out legal proceedings, so promptly obtaining reliable and accurate information about a bankruptcy case is critical for creditors to effectively exercise their rights in the proceedings.

With this in mind, the portal provides several options for obtaining relevant information:

- Information can be obtained online through the portal’s website using built-in search tools. This access is obtained using standard web browsers without charge, allowing any interested party to easily monitor the course of bankruptcy proceedings without any additional costs. There are no restrictions for this means of access (with the exception of standard constraints of internet bots).
Another basic function of the portal is the option to subscribe to updates over the course of bankruptcy proceedings regarding certain debtors. When new information appears, the subscriber is notified by email that new information about a debtor is available on the portal. This tool is limited to five subscriptions per email address, but is also offered free of charge.

If users need to obtain information about a broad range of debtors, they can connect to the data download gateway, where information is provided on all notices published in the system in machine-readable XML format. This type of access is primarily of interest to information agencies for inclusion in their own databases, as well as to systemic participants in bankruptcy proceedings, such as major banks, because of the option to integrate the data into their own electronic file management system. This type of access is offered for a modest fee of less than 15,000 roubles (about €330) per month.

Additional features

In addition to ensuring free and unfettered access to information on bankruptcies for interested parties, the portal provides fairly extensive opportunities for analytical research in the area of bankruptcies.

Under the current regime, the total number of bankruptcy practitioners is known (9,535 people as of 5 May 2014), as is the number of arbitration managers who have published notices on the portal at least once (7,923). This also makes it possible to determine the number of non-practising managers. For example, in 2013 at least one notice was published about 27,736 debtors, 62 of which were natural monopolies (such as utility and power networks, municipal transport and railway services). The largest number of natural monopolies subject to bankruptcy proceedings was in the Vladimir region (6).

The portal also receives a large amount of information for analysis from separate electronic trading platforms that sell the assets of bankrupt debtors. Since 2011 real estate, securities, pledged assets, objects of historical or artistic value, items with a market value in excess of 500,000 roubles (about €11,000), property rights, as well as enterprises (businesses) as a whole have all been sold through an electronic bidding process.

Statistics show that about 30,000 bidding processes for the sale of debtors’ assets are held in Russia quarterly (see Chart 1), with the 10 largest trading platforms (out of a total of 55) accounting for 86 per cent of bidding processes. Furthermore, no more than 10 per cent of assets are sold in bidding processes that are ascending price auctions (5.8 per cent in the fourth quarter of 2013) (see Chart 2), while in descending price auctions, the average discount to the starting price ranges from 65 to 70 per cent (see Chart 3).

Since 1 July 2014 arbitration managers’ final reports have been posted on the portal. This makes it possible to analyse and determine to a greater extent the effectiveness of bankruptcy proceedings by looking at the cost of proceedings, the degree to which creditors’ claims are satisfied in full, the number of filed and upheld appeals against arbitration managers as well as the value of assets and amount of debt held by the debtor, among other things. Clearly such information is highly relevant for government legislators interested in reforming bankruptcy regulation in order to increase the effectiveness of bankruptcy proceedings. In general, the new resource introduced by the Bankruptcy Register has made the whole field of financial recovery and bankruptcy in Russia more civilised, transparent and clear to the public.
Chart 1: Total number of electronic sales (quarterly) in Russia

Source: Data gathered from the Unified Federal Register of Bankruptcy Information at www.bankrot.fedresurs.ru.

Chart 2: Share of completed sales (Russia)

Source: Data gathered from the Unified Federal Register of Bankruptcy Information at www.bankrot.fedresurs.ru.
Chart 3: Average discount (in per cent) to starting price in descending price auctions (Russia)

Source: Data gathered from the Unified Federal Register of Bankruptcy Information at www.bankrot.fedresurs.ru.

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1 See www.bankrot.fedresurs.ru (last accessed 16 September 2014).
2 The average publication cost for print publications between 2002 and 2013 was about 150 roubles per square centimetre of printed area, which resulted in a minimum publication cost of 7,000-8,000 roubles (about €175 on the basis of the exchange rate current on 31 December 2013), while the maximum cost of publication could reach hundreds of thousands of roubles.
3 Approximately €14 (on the basis of the exchange rate current on 31 December 2013). The publication price in roubles has not changed since 2011.
4 Data for Q3 2013 were removed deliberately from the three charts. During this period the Deposit Insurance Agency, which is the liquidator of insolvent banks in Russia, held over 30,000 unsuccessful trades of small assets. As a result, the statistics were extremely distorted in terms of the number of trades and percentage of successful/unsuccessful trades.