

# Criteria published for registering as bankruptcy expert in UAE

## Speed read

In a development which will be of interest to those in the restructuring community, the UAE's Financial Reorganization Committee (the **FRC**) has codified, via an Approved Guide<sup>1</sup>, the steps that insolvency practitioners will need to take to register as bankruptcy experts for the purposes of assisting with formal bankruptcy proceedings in the UAE.

Whilst the Approved Guide was formally approved by the FRC on 4 May 2020, the full text of the Approved Guide was only published in the Official Gazette on 28 February 2021.

Recognising the specialist skillset and experience which is required when dealing with matters of bankruptcy and restructuring, the Approved Guide provides, for the first time, a bespoke set of criteria for those wishing to be listed as 'bankruptcy experts' on the Experts' Roster.

The Approved Guide consists of mandatory requirements for registration (the **Conditions**) and measures for classifying an Expert into one of three categories or levels of qualifications and experience (the **Standards**). The Approved Guide also sets out the requirements for promotion of an Expert from one category or level of experience to the next level. Finally, the Approved Guide provides a list of obligations that an Expert must fulfil after appointment to the Experts' Roster.

We consider the publication of the Approved Guide to be a further positive development in the evolution of the UAE's bankruptcy regime. As with any new regime, the proof will ultimately lie in how this is implemented and utilised in practice. In this regard, it will be telling how many experienced insolvency practitioners now take the necessary steps to become registered.

## Conditions/Mandatory Requirements for Registration

The Conditions for registration of a natural person include holding at least a university degree from a recognized institution, having a minimum of seven years of experience (for a state citizen) or 15 years of experience (for a non-citizen) in the field of bankruptcy, insolvency and restructuring, passing relevant tests and interviews with the FRC, having no prior conviction for a felony or misdemeanour

involving breach of honour and trust, and submitting various forms listed out in the Approved Guide, among other criteria.

There are separate Conditions for registration of a legal entity. A legal entity must be licensed in the UAE to provide the relevant expertise, have an established organizational structure with sound

<sup>1</sup> The Approved Guide to Conditions and Standards for Registration in the Experts' Roster Regarding Financial Reorganization, Composition, Liquidation, Bankruptcy, and Insolvency in the United Arab Emirates.

corporate governance, have at least three individual Experts who are registered in the Experts' Roster, provide an insurance policy against occupational risks of at least one million dirhams and designate a legal representative by submitting a form provided in the Approved Guide.

If an applicant satisfies the applicable Conditions, it may apply for registration using a form provided

in the Approved Guide as well as on the FRC's website, attaching other required documents such as certified and authenticated academic qualifications and experience certificates for a natural person and commercial license and memorandum of association for a legal entity, among other identification and supporting documents.

## Specialists' Levels of Expertise

# Specialists' Levels of Expertise



Promotion upon acquiring skills and qualifications required for higher category

Types of bankruptcy cases assigned



### Qualification criteria for all three categories

- ▶ Passing training courses, tests and interviews prescribed by the FRC
- ▶ Acquaintance with certain bankruptcy, insolvency and other laws
- ▶ Knowledge of international financial reporting standards
- ▶ A degree in either business administration or law
- ▶ Additional requirements for accountants, such as technical skills in certain accounting software and providing various qualification certificates based on category level

### Additional qualification criteria

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| <ul style="list-style-type: none"> <li>▶ At least Bachelor's degree in business administration or law</li> </ul> | <ul style="list-style-type: none"> <li>▶ At least Master's degree in business administration or law</li> <li>▶ Prior work experience on at least three cases in the respective expertise</li> <li>▶ Experience in an administrative or supervisory position for at least five years</li> </ul> | <ul style="list-style-type: none"> <li>▶ Master's and Doctorate degree in business administration or law</li> <li>▶ Prior work experience on at least five cases in the respective expertise</li> <li>▶ Experience in an administrative or supervisory position for at least seven years</li> <li>▶ Membership of Insolvency Practitioners association, INSOL or ARITA</li> </ul> |

## Registration

When reviewing a registration application, the FRC may request any additional information or attendance of the applicant at the FRC's headquarters. The FRC is required to accept or reject an application within fourteen working days from submission. Once the application is approved, the relevant Expert is registered in the Experts' Roster and is given a certificate for practicing as an Expert. The term of registration is two years, renewable upon the Expert's request. A renewal application must be filed at least thirty days prior to the expiration of the registration. Failure to apply for a renewal for ninety days after the expiration of the registration results in deregistration of the Expert from the Experts' Roster after ensuring the completion of any prior tasks assigned to such Expert by the FRC.

If an Expert wishes to cancel their registration, it must apply for the cancellation at least ninety days prior to the expiration of the registration and explain

the relevant reasons. The FRC would then consider the application after communicating with the courts regarding any cases assigned to such Expert. If an Expert's assignment on a financial reorganization case is on-going, such Expert may not apply for cancellation. The cancellation application form is provided in the Approved Guide as well as on the FRC's website.

Complaints may be filed on the FRC's website by or against the Expert, using the designated form and attaching supporting documents. The FRC has the right to summon the complainant to discuss the complaint, if necessary. The FRC's decision on a complaint shall be considered final and not subject to any appeal.

It is not clear from the Approved Guide whether an Expert would be required to accept mandates once registered or whether it would be entitled to select only those mandates which it wishes to partake in.

## FRC's Duties and Responsibilities

The FRC's Secretary reviews the applications for registration for completeness and submits them to the FRC. The Secretary also assists with the approval process for registration, develops technical standards for nomination of Experts appropriate for financial reorganization cases, and presents periodic reports on an Expert's performance to the FRC. The FRC is responsible for evaluating the applications for registration, updating the conditions and procedures for

registration periodically, tracking an Expert's performance through reports and assessments, imposing penalties and deciding complaints, and promoting Experts. Penalties that the FRC may impose on an Expert include issuance of a warning against the Expert, suspension of registration for one year, no new assignments of tasks for a determined period, bringing the Expert to public prosecution for investigation, and irrevocable deregistration of the Expert.

## Experts' Obligations after Appointment

Once appointed, an Expert must maintain a valid residence permit in the UAE throughout the term of appointment for a financial reorganization case, sign a no-conflicts of interest form, provide adequate time to the cases it supervises, inform the FRC of any

impediments limiting such Expert's ability to practice, submit final reports in Arabic, assume professional liability for the work done as an Expert, and answer any inquiries about such work.

# Key contacts

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