

# Some Issues of Bankruptcy Procession: Case of the Czech Republic

Marie Paseková, Dagmar Bařinová, Monika Randáková, and Jiří Strouhal

**Abstract**—Corporate and personal entities, businesses or not, can find themselves in a situation where they are not able to fulfill their obligations. This condition is and insolvency, bankruptcy and the solution is determined by law. This paper is explaining the principles and forms of bankruptcy proceedings by liquidation, restructuring, discharge from debts and special forms. Briefly it deals with bankruptcy register and questions regarding bankruptcy proceedings after 1st January 2008.

**Keywords**—Accounting, Bankruptcy Process, Czech Republic, Financial Aspects, Financial Crisis, SMEs, Valuation.

## I. INTRODUCTION

THE factors that lead a company to insolvency are always very different and sometimes, disperse. In the current economic crisis it is possible to distinguish some regularities, which are common on the bankrupt companies. Specifically, the building crisis and also the crunch of credit by financial institutions are, without a doubt, the two main reasons that commonly explain the current situation.

The onset of 2008 financial crises can safely be attributed to the collapse of US and European housing markets. Stimulated by sub-prime mortgage, housing sector enjoyed boom across USA and Europe during 1998 to 2006 [3]. [7] asserts that the worst part of the crisis is already over and the markets are suffering from what can be called “the aftershocks”. However, [8] argues that normalization of economic activities need “global and semantic” solution; do it and you are out of it.

In the Czech Republic bankruptcy conception is brought to reality by relatively new law, No.182/2006 regarding bankruptcy, as of its emendation act „Insolvency Law“. Bankruptcy law case was brought to life after original

Liquidation and Settlement law was criticized for non-reflection Czech economy reality of the 90’s.

By adoption of Bankruptcy law and its solutions (insolvency law), Czech Republic fully complies with developed countries standards. It is a completely new law, reflecting dynamic expansion of legal economic development not just in Czech Republic but Europe as a whole and other countries as well. Adopted modification of Bankruptcy law is a consistent re codification, containing bankruptcy proceedings, role of creditors and debtors but changing the rules of Bankruptcy Administrators. Bankruptcy law is replacing the Liquidation and Settlement law, where in temporary provisions is reservation made as of cases initiated prior to 31st December 2007.

Bankruptcy law is offering to those who cannot longer pay their creditors a new start by liquidating their assets to pay their debts or by creating a repayment plan. Bankruptcy laws also protect troubled businesses and provide for orderly distributions to business creditors through reorganization or liquidation.

Bankruptcy proceedings are coming in four steps: Initiating step, Identifying step, and Approval and Liquidation plan.

Main source for insolvency proceedings is Bankruptcy Administrator (BA) resolving situations where the debtor is entering the bankruptcy phase and he is preparing a Liquidation Plan as well. His duty is to follow Liquidation and settlement law No. 328/1991 valid until 31.12.2007, regarding bankruptcy initiated until this date.

Bankruptcy Administrator is basically formulating possible court solutions for cases where the debtor is not having sufficient resources to cover his debts and since probably there are more creditors, it could lead to a dispute among them. Lack of resources can lead to situation where some creditors get more and other get nothing. This situation is solved by Bankruptcy Administrator the way that he is blocking those resources and debtor, so all creditors are treated equally, according to the nature of their claims. This law is offering how to keep the debtors businesses running and not divided, since if a business is kept in this condition, its value is higher than if it is sold-out fast. The main purpose is to satisfy creditors without liquidation of debtor.

Notice No.311/2007, is specifying the proceedings necessary for bankruptcy steps and forms to follow some Bankruptcy law Codes. This Notice is regulating requirements of request for Application for bankruptcy, Inventory list and

---

This paper is one of the research outputs of the project GA402/09/0225 registered at Czech Science Foundation (GAČR) and project MSM6138439903 registered at Ministry of Education CR.

Marie Paseková is with Tomas Bata University in Zlin, Department of Finance and Accounting, Mostni 5139, 760 01 Zlin, Czech Republic.

Dagmar Bařinová is with Technical University Ostrava, Department of Accounting, Sokolská 33, 702 00 Ostrava, Czech Republic.

Monika Randáková is with University of Economics Prague, Department of Financial Accounting and Auditing, W. Churchill Square 4, 130 67 Prague 3, Czech Republic.

Jiří Strouhal is with University of Economics Prague, Department of Financial Accounting and Auditing, W. Churchill Square 4, 130 67 Prague 3, Czech Republic <email: strouhal@vse.cz>.

requirements of Form of claims, Proposal for discharge and Reports, Restructuring plan.

## II. PROCESSING OF BANKRUPTCY

Transition towards political plurality and market economy in Central and Eastern Europe favored the temporary development of new illegal activities [2]. Some studies also deals with the measurement of the dimension of this shadow economy, despite stating that those activities are not recorded and they cannot be detected. Still there is growing worry about this phenomenon and it is linked to a series of factors that should be taken into account when talking about underground economy [5, 9].

During bankruptcy proceedings the following principles are applied:

- bankruptcy proceedings must be performed the way, no parties involved are treated unjustly or favored, and must lead to the fast, economical and as good as possible creditors satisfaction.
- creditors having, according to Bankruptcy Administrator basically the same or similar position are in the same position during the bankruptcy proceedings
- creditors rights acquired prior to the bankruptcy proceedings cannot be restricted by bankruptcy court and/or Bankruptcy Administrator, unless permitted by Bankruptcy law.
- creditors must refrain from actions leading to satisfaction of their claims outside of bankruptcy proceedings.

### *Bankruptcy and pending bankruptcy*

Debtor is bankrupt when he is in financial insolvency or in excess debts. He is in financial insolvency if there are many creditors and having fiscal liabilities with more than 30 days overdue, without possibility to repay them. Condition of many creditors is establishes two or more creditors, if there is just one creditor, he must than use other means than bankruptcy proceedings to satisfy his claims.

It is considered that the debtor cannot repay his fiscal liabilities when:

- he did stopped the payments of the majority of his fiscal liabilities or
- he is not paying his fiscal liabilities for more than 3 month period after their due-payment
- it is not possible to satisfy some of his fiscal liabilities toward creditor by enforcement of court decision or distraint or
- debtor did not presented his inventory sheet including his account receivables including the list of his debtors, list of his employees and documents supporting his bankruptcy or pending bankruptcy. This duty is designated to him by Bankruptcy Court.

If the debtor is a corporate entity or personal entity-

business, it is under bankruptcy when is insolvent. Insolvency means if the debtor is having more creditors and his total debt is higher than his assets. Bankruptcy law is not specifying if there are claims that „can be paid“ as it was a case of Liquidation and settlement law, but about accounts payable, debtor must evaluate all those which can or cannot be paid.

Pending bankruptcy is specified in Bankruptcy law in connection to fiscal liabilities. The main sign of this is there reasonable assumption of debtors' readiness to pay his debts. This is valid for businesses or private citizens.

Bankruptcy or pending bankruptcy is solved by court, as bankruptcy proceedings.

### *Forms of bankruptcy solutions*

Forms of bankruptcy or pending bankruptcy solutions in bankruptcy proceedings are Liquidation, restructuring, discharge from debts and special solution of bankruptcy for insurance houses and banks.

### *Auditions*

It means that the debtors and creditors claims are resolved by court. Creditor claims are proportionately satisfied by selling debtor assets. Unsatisfied claims or their parts do not expire. This way of bankruptcy is the most used one.

Shortened and simple form of bankruptcy is Small bankruptcy. This is a form, when the debtor is private person without business, or debtor total turnover in fiscal period preceding the bankruptcy filing is not bigger than 2 mil.CZK and no more than 50 creditors.

### *Restructuring*

Goal of restructuring is not debtor liquidation but some recovery of his fiscal situation by means of special measures leading to the debtor business continuation. Claims are satisfied gradually and debtors business activities are kept running. Restructuring plan is prepared, continuously overseen by creditors. Restructuring is allowed by law if a total debtor turnover during the accounting period preceding the bankruptcy filing is 100 million CZK minimum or he is employing at least 100. If the debtor simultaneously with bankruptcy filing, or 15 days maximum after court decision, can submit the restructuring plan, agreed upon with at least 50% of creditors (calculated from their claims size) and at least 50% of unsecured debtors (calculated from their claims size), the number of debtor employees is not decisive.

Restructuring is not possible with personal entity business in liquidation.

### *Discharge from debts*

This form of bankruptcy solution is intended, according to Bankruptcy law for debtors, for non-business persons capable of paying their unsecured creditors in lump-sum payment or installment during 5 years maximum period pay at least 30 % of their claims. Discharge from debts is giving him a chance that after 30% minimum of debt paid is discharged of debt

remainder.

After the discharge of debt filling it is reviewed if the debtor has business activities and his debts are not from such an activity. Discharge of debt filling is filled by debtor. Discharge is performed by selling debtors assets or according to payment schedule. If the debtors' assets are sold, it is then preceded as in case of liquidation, assets are than not the ones acquired after the court discharge of debt approval. During the monthly installments for 5 years debtor is paying his creditors a certain sum.

After 5 years the court is issuing court decision releasing the debtor of his obligations. This release is not valid if during 3 years after his decision court shall find that this release was based on fraudulent conduct or creditor gives some of the creditors' unjust advantage.

Form of discharge of debt is better than small bankruptcy since during discharge of debt the fiscal obligations are finally erased.

### III. VALUATION ISSUES UPON BANKRUPTCY

In the moment, when an insolvency petition is imposed on a company, there is a need to ask basic questions: Is this business really in bankruptcy? Was the principle of continuity of a business to the near future really broken? This phase of evaluation of the economic situation of business is the most important one, since its underestimation may have fatal consequences for the business. Based on wrong decision a bankruptcy over a business might be declared, while the economical and financial situation doesn't respond to that fact, or it will be stated, that the business is in downfall, but the new situation can be under or overestimated and consequently it will be decided about wrong solution of an arisen downfall (bankruptcy, reorganization). There are a lot of methods in use, how to evaluate a business, but not all of them are applicable to business in downfall.

The effects of bankruptcy statement come in force with the moment of publication the decision about bankruptcy statement in an insolvency register. With the bankruptcy statement the competence to dispose with estate is passed on an insolvency administrator. With a bankruptcy statement the operations of a debtors business does not end. Operation can be finished either by selling of a business with one contract in frame of estate encashment, or by decision of insolvency court on a proposal of insolvency administrator after the approval of creditor committee. By bankruptcy statement are interrupted the court, administrative and other operations about rights and duties, which are related to estate or which should be satisfied from estate, in whose the debtor is involved.

Insolvency administrator focuses in frame of bankruptcy especially on finding, securing and inventory of assets including its evaluation, making a list of registered claims, preparation of research conduct, preparation of creditors meeting and consequently on estate encashment and payment of profit to bankruptcy creditors.

Valuation and measurement is well discussed in several

research papers. Valuation (measurement) in financial reporting is one of factors which determines the quality and reliability of presented information. There may be seen a conflict between the requirements for relevance and timeliness of measurement on one side and the reliability and conclusive evidence on the other side. However, it shall be stated that the important problem of measurement issues is the possibility of subjective manipulation with values, which is possible when using certain measurement bases [6].

A duty of a debtor is to provide the administrator all cooperation. A base for recognition of estate is a list of property, which debtor is obliged to submit simultaneously with an insolvency proposal (if he exhibits the proposal by himself) or based on the decision of the insolvency court (if the creditor exhibits the proposal). Insolvency administrator or preliminary administrator will make his own research about, if there are also other things involved in estate, such as rights, claims and property values, other than these, which debtor stated in his property list. The more transparent and detailed property list the debtor makes, the more non-problem will the making of list of an estate proceeds. The inventory of estate is a document, which enforces the insolvency administrator to encashment of enlisted property.

The administrator consequently makes a list about an economic situation of debtor. In this report he compares assets to the liabilities of the debtor and expresses himself to the possibility of subsequent utilization of debtors business. The administrator should make at first a real image about his financial situation, therefore about what is the value of determined assets (determining of estate) and what will probably be satisfaction of secured creditors.

In case it is decided, that a distress of debtor will be solved with bankruptcy, there is no suppose in long-term continuation in entrepreneurship and that is why by evaluating assets there is a need to origin from liquidation prices. Evaluation might be also based on liquidation price described even for a revenue method, because a value of business will be determined by expected revenues from liquidation. In this case it won't be revenues from a business as a function unit, but sale revenues or liquidation of individual property items.

As mentioned above, the end of business operation isn't tied to decision about solving distress by bankruptcy. Business as a whole or some of its parts can continue even while in insolvency process, but with the limitation, that new costs can be covered. Evaluation of assets by the most suitable method - liquidation price - is one of the most important activities of the insolvency administrator.

#### A. *Limitation in Determining of the Liquidation Price*

The problem with determination of property value consists from the fact, that a business is in non-standard conditions (in insolvency process everybody knows about) and therefore this objective status will always distinctively influence the evaluation.

Other limit by evaluation of determined assets is time. The clearance of property will take some time and that's why there

is need to base in a point of making a list of assets on value of earnings from sale of individual property. Moreover there may occur, that earning from sales will differ a lot from original prognosis. Simultaneously it is valid the longer the business will have property under its control (whether used or not), the more finance will have to be spent on its preservation or security against internal and external effects.

No less important factor which influences determination of liquidation evaluation is a structure and age of assets, as it is true in general that by an old property and specialized property is liquidation prize determined on very low level.

In the moment, when administrator evaluates individual items of determined assets, he is not able to determine, whether the property will be consequently sold off item by item or whether business will sell the property as a whole, and therefore the business will be consequently kept as a economical unit. Revenues and earnings from sale of property as a whole would be for sure bigger than in a case of selling it part by part. In the case of selling of the property individually may occur, and it occurs very often in practice, that there will remain the property, which nobody wants and logically it has to be physically liquidated, which on the other hand imposes an additional costs.

The biggest problem from liquidation prices point of view may be intangible assets, which are in most cases very difficult to sell. To determine the liquidation price by these assets is difficult, if not impossible. In these cases is then suitable and real to origin from value of zero.

The part of estate aren't only assets which were determined in the moment of decision about debtor's downfall based on physical or documentary stocktaking and which were simultaneously owned by the debtor. Into the list of estate is enlisted also the property of third persons, for example from the title of guaranty for a debtor. Also these assets have to be evaluated somehow. The creditor has in fact two options, either he gives up to his property in favor of the debtor and the administrator will himself offer this property to sell and that's why he will evaluate the property by liquidation prices, or instead to give the property to the administrator physically, he will provide the money directly to the administrator or to secured creditor. The question sounds, how much money it will be? In this case it is needed to evaluate the property (real-estates in most cases) by a specialist, who does not base his decision by evaluation the fact, that the property will be liquidated (in most cases the reproduction price will be used).

From the above mentioned it results, that each item of the estate has to be evaluated to be possible to determine the expected earnings from its sale.

In case of the bankruptcy the estate may be in the course of insolvency process reproduced. Examples include beneficial interest (start of term deposits) received funds from the sale of property before distribution to the creditors. Insolvency act also envisages with the multiplication of the estate as a result of continuing the business. An example might serve an apartment building with tenants, where clients can not be

immediately moved out, but instead must be continued with rental housing units under standard conditions and find buyers. It is assumed that the amount of selected rent will cover the cost of rent, connected with the operation of property and the administration of the estate and under good conditions it may be banished from this particular activity also a profit. The problem with the payment of costs may arise in case of emergencies (natural disaster, accident or condition of the building parts, etc.). Then, in these specific cases is very difficult to predict the future reproduction of the estate and therefore corresponding to the principle of precaution should be based on past, real facts. Liquidator is not the role of savior, but he rather plays the role of protector of property for the benefit of creditors of the debtor. His experience in running a business of the same species may be minimal in many cases even zero.

### *B. Debtor's Obligations upon Bankruptcy*

After finding, securing and processing the inventory of the estate is necessary to focus the insolvency administrator on the creditor of the debtor and realize their inventory, including their division into groups and to establish their legitimate claims.

Creditors in insolvency process apply their claims by filing the sign-up formulary from the initiation of insolvency process until the expiry of the period specified in the decision of downfall. It is possible to sign an undue claim, claim tied to the condition or claim which has already been applied in court, including claims, which are recovered through enforcement or execution.

During the insolvency process a whole series of creditor's claims arise. They are the following types of claims:

- claims for the material nature;
- incurred after the initiation of insolvency proceedings;
- incurred after the decision of the bankruptcy;
- claims based on the level of claims for the material nature;
- claims already entered into insolvency proceedings;
- subordinated claims;
- residuary claims;
- unsatisfiable claims in insolvency proceedings.

Claims for the estate and claims based on the level of claims for the material nature are satisfied in full size at any time after the decision on bankruptcy. These claims in insolvency process can be applied to the insolvency administrator.

Claims to be met in the bankruptcy to the schedule must always be entered into the insolvency process and they will be subjects to a review hearing. Claims that have been entered in the insolvency process are divided in the claims of secured creditors and unsecured creditors' claims. Special group creates so called contingent claims. In the case of the ensured property of third persons creditors may apply their claims outside the insolvency process. If the secured creditor seeks his right in the frame of ensuring things, rights, claims or other

assets owned by third parties, such persons can claim, which they will suffer satisfaction of the creditor against the debtor, log in as a contingent claim. Administrator in this case is no longer able to claim this benefit in favor of the estate because the transaction was made directly to the secured creditor.

#### *Example*

Debtor was granted a bank loan amount of 5 000 TCZK. The bank asked the loan guarantee in the form of property. Due to the fact that the debtor did not own any real estate, he turned on the company XY that stood a property in favor of the bank (office building). The bank is now in terms of the insolvency proceedings secured creditor, which wants to secure their rights by encashment secured property of a third part.

Company XY does not intend to give over the office building to the estate, but during the bankruptcy process it offered to pay off the subject of ensure directly to secured creditor in the amount 5 000 TCZK (due to the simplification we have to abstract from the unpaid interest on the loan).

This comprised amount the company XZ may register as a contingent claim against the debtor in a group of unsecured creditors, who will be satisfied for example in the schedule (if bankruptcy is a way of dealing with downfall).

Subordinated claim means, claim to be met under the contract only after other claim or other claims of the debtor. Subordinated claims are satisfied, after full payment of all claims included in the insolvency process, depending on the agreed level of subordination, or proportionately.

Last claims to satisfy are always claims of shareholders or members of the debtor arising from their participation in the company or cooperative in proportion. These claims in insolvency process do not apply, but they only need to be notifying the insolvency administrator, who leads the record.

Among the unsatisfiable claims in insolvency process belong for example those claims, that were submit later than it was specified in the decision to downfall and therefore they are not taken into account in insolvency process and so they are not being met. Furthermore also claims that have not been included in the insolvency process at all.

Due to the fact that the debtor's obligations are different in nature and not all will be meet in the same extent (ratio) and time it is necessary that the manager proceeds in accordance with the above mentioned division, while making up a list of creditor claims. Preparation of this list is also the basis for the review hearing, where it gets either to recognition or to denial of creditors claims (in terms of reason and size).

When evaluating the creditor claims which have been already granted, and therefore should be met, the valuation to date of the decision of decline (principal + interest), is particularly taken into account. Time factor in this case does not play a role as in the case of distribution of proceeds of the estate in bankruptcy is not counted with 100% satisfaction of creditor claims (applied claims to the proceeding) but only with their proportional satisfaction. Regarding creditor claims

incurred during the insolvency proceedings, they are expected to be continuously met if it is possible in 100%. In the Czech Republic it is not possible to evaluate the commitment otherwise than in the nominal value.

#### *C. Explanatory Ability of the Financial Statements of Companies upon Bankruptcy*

Financial reporting is primarily a process of measurement, evaluation and communication. Accounting system is given input data, which are processed into outputs for the surrounding environment. These outputs will affect the decisions of users of accounting information. Is it the same also in the case of debtors, which are currently in downfall? Does in these cases the accounting and financial reporting reflect the reality of the debtor?

Register of the estate is besides list of creditor claims to be met in bankruptcy, the most important instrument made up in the insolvency process. But the register itself is not an accounting document.

The insolvency act is quite clear, that the valuation must be carried out in accordance to special legislation on the evaluation and that it is not projected into the accounts of the debtor. To meet this argument is no rational reason. If the expert evaluate for example current assets at a lower level than the value recorded in the accounts, why not to create a rectifying item to this assets. On the other hand the reflection of decrease of the value in the accounts either because of the situation (bankruptcy) or due to distressed sales (at any cost to sell) or the type of asset (a specific type of asset that is not useful to anyone), would be a reflection of reality and gave the creditors information of the value of real estate that will be used to their satisfaction after encashment.

If we accept the approach that changes in evaluation (down to the precautionary principle) to assets registered in accounting books will be reflected into the accounts so then arises from this fact the question how to deal with property that was previously not recorded in the accounts of the debtor (viz. see repeatedly mentioned the guarantor - a third person, or returned property previously sold in the inefficient operations of the borrower, etc.). In order to keep accounts explanatory ability, it is essential that this property has been reflected in the accounts of the debtor either in cash or noncash form.

In case, when there is no reflection of the downfall in the value of property to the accounts and the accounts will not be additionally captured property which has not been recorded in the accounts of the debtor, the financial reporting of the companies in insolvency process (bankruptcy) loses its meaning, and therefore ceases to meet its function, which is to inform the surroundings of the proprietarily and financial situation in the company.

#### IV. RESEARCH FOCUSED ON CZECH SMES

Small-and-Medium-Sized Enterprises (SMEs) sector forms as much as 99 % of business entities around the world. Therefore it is necessary for policy makers to stress their

attention just to the needs of these enterprises. It is a driving force of the sphere of business, of growth, innovations as well as competitiveness. It plays a decisive role in job creation and in general it is a factor of social stability and economic development. On the other hand, SMEs have often difficulties to gain capital or credits which are caused by continuing unwillingness of financial markets to take the risk and by insufficient guarantee which SMEs can offer to banks. Limited sources of financing can also make the approach to information more difficult, especially information on new technologies and potential markets.

SMEs create one third of the gross domestic product in the European Union and two thirds of jobs. They are a backbone of the European economy. In the Czech Republic SMEs participate in employment with 61.52% and in accounting added value with 54.57 %. SMEs represent 99.83 % of the total number of active business entities.

#### A. Discussion of Accounting Issues in SMEs

The question if SMEs need consistent accounting harmonization has already been discussed for more than ten years. Objections of financial reporting harmonization opponents claiming that SMEs are not of international significance in the globalized world are fading out. Even in SMEs there are foreign investors for whom the need to orientate themselves in financial statements is vital. In addition, many of these enterprises are a part of a consolidation group where the same rules, comparable accounting methods and standard procedures are required. If the European Union adopts this standard for its member countries, this may result in a loss of identity, mainly from the following reasons:

- IFRS for SMEs is a narrowing of full IFRS, which converges with US GAAP. This can be destructive for the existing EU environment and for the values historically recognized in Europe.
- There are conceptual differences in basic theoretical/philosophical approaches between IFRS for SMEs and accounting of the continental Europe, especially as regards the traditional groups of users, goals and rules.
- The countries of continental Europe used SMEs financial statements traditionally for informative purposes but also for tax purposes. The IFRS for SMEs is not able to fulfill these functions (and it does not want to fulfill them) because it is not orientated preferentially to circumspection which would preserve their equity capital and protect the creditors. A deviation from the principle of circumspection could have fatal consequences upon enterprises dependent on credits.
- So far the system of regulation in the EU has been based on the environment to which it should serve. Acceptance of IFRS for SMEs in EU environment will change this historical practice because regulation by the international standard will be

primary and the EU environment will have to adapt to it, otherwise it would be impossible to apply the standards. Thus artificial environment will be implemented in the EU and also in each member country which does not correspond to its culture and its value priorities (legal, economic, social, environmental etc.).

A key problem of accounting based on IFRS is the tax basis which is received from the accounting profit in the Czech Republic [6]. For this reason, companies reporting under IFRS framework by law have to transform their accounting profit to such a result which they may have according to Czech accounting regulations.

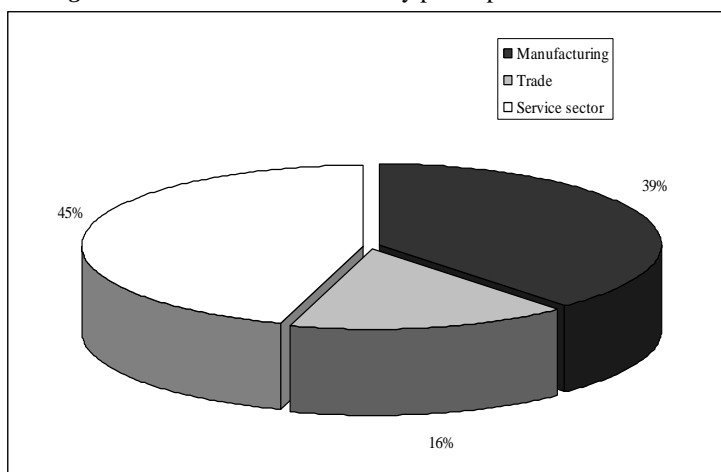
Only small percentage of SMEs is really interested in providing, what is so called in accounting "true-and-fair view". Still, majority of companies use accounting just to provide data which are necessary for calculation of the tax base; accounting information for the managerial purposes are used by SMEs very rarely. According to above mentioned problems within reporting of SMEs in Czech there was prepared a questionnaire dealing with possible discrepancies between current reporting of those entities and recommendations in IFRS. The questionnaire was distributed between 132 companies from the category classified as "small-and-medium-sized enterprise". The structure of the companies was as follows: production companies represented 30.3 %, trade businesses 24.2 %, and service-providing companies just 45.5 % [6].

#### B. Questionnaire Survey

One of the biggest questions in bankruptcy proceedings is an insolvency certificate. This research goal is, by using the questionnaire to assess the conditions signaling the imminent bankruptcy, especially account payable due and if there is more than one creditor.

It is summarizing the answers of 31 businesses with less than 250 employees. 12 of them are manufacturing, 5 are trading businesses and 14 are involved in service activities. Participants' structure is shown in Fig.1.

**Fig 1.** Business structure of survey participants

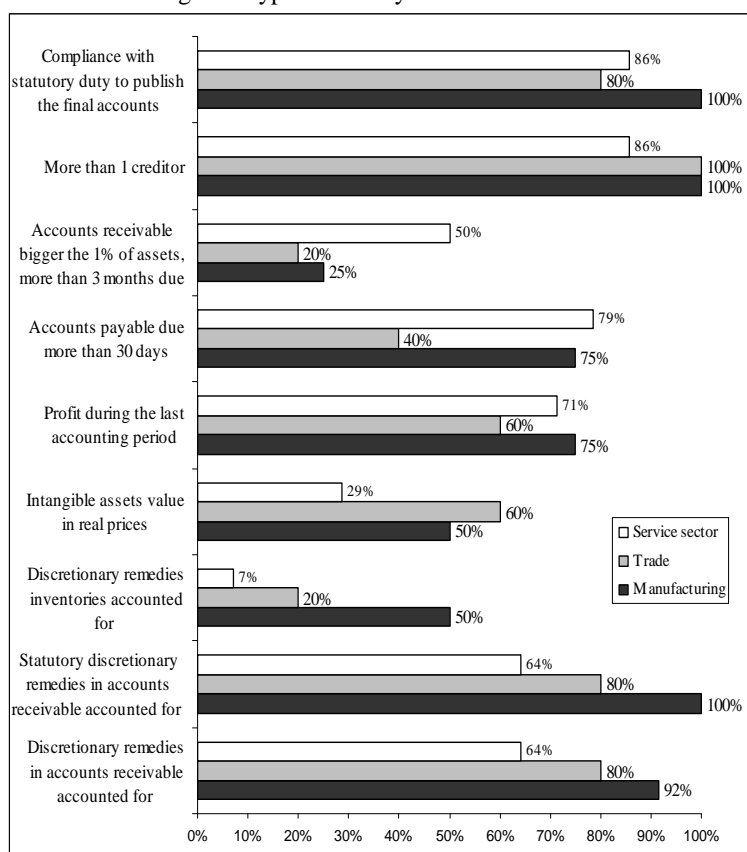


Source: authors' analysis

Questions used here were aimed to the signals connected with the bankruptcy risk factors in small and medium-sized businesses in Czech Republic.

Businesses answered 9 questions regarding discretionary remedies in accounts receivable and inventories and regarding files of accounts receivable and payable due. Summary of this research is shown in Fig.2.

**Fig. 2.** Occurrence of related events in businesses concerning their type of activity.



Source: authors' analysis

Research results are showing that most of the businesses are observing the statutory requirement of publishing the financial statements and annual reports in Business Registry, this being observed by all manufacturing subjects.

Typical there is a situation where businesses are having more than one creditor. Such a situation is not necessarily leading to the assumption of insolvency. Deciding factor there is the existence of accounts receivables, due more than 3 months. In businesses researched here this situation existed by 20-50% of respondents.

Most of the businesses are accounting for statutory discretionary remedies in accounts receivable. Especially businesses with statutory audits must observe this field, since its documentation is required by law. Discretionary remedies in inventories are accounted for by relatively small portion of

businesses in trading and services sectors, which is based on their business character. It is important that half of the participants is accounting for discretionary remedies in inventories. This is important to calculate real operational income. It is always lowering the accounting base results; reality is that good performance in this field is by businesses with mandatory audit. Overall the problems of discretionary remedies summarize in sense that if a business is not forming them at all and accounting accounts receivables due and inventories longer than one year, it can be concluded that its closing account is overvalued.

## V. CONCLUSION

Debtor can find himself in bankruptcy by financial insolvency or excess debt. Forms of solving the bankruptcy or pending bankruptcy are auditions, restructuring, discharge of debts and special bankruptcy solutions for insurance houses and banks.

Bankruptcy proceedings are initiated by delivering the bankruptcy filing to the court. This bankruptcy filing can be entered by debtor or creditor. Bankruptcy court than shall publish the bankruptcy proceedings opening and appoint the Bankruptcy Administrator. Creditors can submit their claims from that moment. Each claim is than reviewed by Bankruptcy Administrator which shall publish their list. Bankruptcy court than decide about the form of bankruptcy solution.

In every business engagement there can arise the situation where one of the partners can find him in primary or secondary insolvency. Such situation shall be indicated on-time by information about possible delay or threatening bankruptcy. A best prevention against bankruptcy is a proper and exact evidence and dealing with debt. Other than conventional approach to the debtors' crisis and following disputes is there introduced by Bankruptcy law the institute of Pending bankruptcy.

Bankruptcy law is allowing the debtor to react even in time when the bankruptcy could be coming. Pending bankruptcy can be characterized as an incoming inability of debtor to pay on time and fully most of his obligations. Timely filing for bankruptcy and active cooperation with his creditors are increasing the chance of not entering the liquidation phase of bankruptcy and its solution.

Evaluation of any property in any situation is always very important, but also in many cases very difficult. Before starting work on the valuation is necessary - among others - to clarify the reason for the valuation performed and what value should be the result of valuation. The choice of technique is the subject of functions that valuation should be fulfilled. At the time of the valuation individual components of property owned by the firm or company as a whole, which is in crisis and goes through a process of insolvency process (bankruptcy) it appears as the most appropriate to use methods based on the analysis of property, especially as a basis to take the liquidation price.

[1] states that economic crisis and "downturns" provides

good opportunities for medium-sized companies; they can “undertake counter-cyclical moves that strengthen their competitive position; lean enterprise campaigns; strategic acquisitions; hiring of talented employees released by downsizing companies” and etc. He further stated that current crisis offers the same opportunities. However, small firms are facing tightened credit term in contemporary financial conditions; moreover the entrepreneurs are showing noteworthy concern about access over credit.

When point comes to a financial crisis, it means a “poorly functioning financial markets” this inadequate performance of financial markets can lead to the limited entry of new firms, low production in the firms on hand and greater financial constraints from SMEs [4].

Considering the role of entrepreneurship in the crisis, due to its ability of innovation and growth of investment, entrepreneurship is able to play a vital role in the current financial scenario by creating job opportunities and economic growth.

#### REFERENCES

- [1] D. Bartlett, *Fallout of the Global Financial Crisis*, London: RSM International Association, 2008.
- [2] N. Kureshi, F. Qureshi, and A. Sajid, An Empirical Study of Supplier Development Practices in a Developing Economy – SMEs Perspective, *WSEAS Transactions on Business and Economics*, Vol. 6, No. 6, 2009, pp. 255-268.
- [3] R. Nicholson et al., Impact of the Financial Crisis on Technology Spending in the Utility Industry, *Energy Insights*, No. October, 2008, pp. 1-4.
- [4] A. Paulson, and R. Townsend, Financial Constraints and Entrepreneurship: Evidence from the Thai Financial Crisis, *Economic Perspectives*, Vol. 29, No. 3, 2005, pp. 34-48.
- [5] I.G. Radulescu, C. Popescu, and M. Matei, Conceptual Aspects of Shadow Economy, *WSEAS Transactions on Business and Economics*, Vol. 7, No. 2, 2010, pp. 160-169.
- [6] J. Strouhal, L. Mullerova, Z. Cardova, and M. Pasekova, National and International Financial Reporting Rules: Testing the Compatibility of Czech Reporting from the SMEs Perspective, *WSEAS Transactions on Business and Economics*, Vol. 6, No. 12, 2009, pp. 620-629.
- [7] K. Yilmaz, and F.X. Diebold, Measuring Financial Asset Return and Volatility Spillovers, with Application to Global Equity Markets, *Economic Journal*, Vol. 119, 2009, pp. 158-171.
- [8] S. Zukang, *World Economic Situation and Prospects*, New York: United Nations, 2008.
- [9] D. Zira, The Impact of the Economic Crisis on Romanian Labour Market, *WSEAS Transactions on Business and Economics*, Vol. 6, No. 7, 2009, pp. 362-373.

**Marie Paseková** (Ph.D.) is associate professor of the Tomas Bata University in Zlín, Czech Republic. Her major is reporting for SMEs.

**Dagmar Bařinová** (Ph.D.) is associate professor of the Technical University of Ostrava, Czech Republic. Her major is bankruptcy solution.

**Monika Randáková** (Ph.D.) is senior lecturer of the University of Economics Prague, Czech Republic. Her major is bankruptcy solution.

**Jiří Strouhal** (Ph.D.) is senior lecturer of the University of Economics Prague, Czech Republic. His major is international accounting harmonization mainly focused on financial instruments reporting and SMEs reporting. He acted as associate editor of the EMT 2010 Timisoara EUROPEMENT conference proceedings. Currently he is an acting vice-president of Chamber of Certified Accountants Czech Republic.