

# **The Costs of Bankruptcy**

## **Abstract**

This work deals with the question of whether insolvency law effectively reduces the cost of bankruptcy in the context of insolvency proceedings of commercial corporations. The author first defines the economic foundations of insolvency law and emphasizes its goal as a maximalization of the creditor's wealth. The first chapter focuses on the initial context of insolvency proceedings and emphasizes an economic perspective that views insolvency proceedings as a mechanism for shifting a residual claim from shareholders to creditors at the lowest costs. The author describes the costs of using this mechanism as the costs of bankruptcy. The second chapter describes what kind of costs are associated to the civil proceedings. Subsequently the author elaborates on the relationship in between the civil proceeding costs and insolvency proceeding costs. The rest of the second chapter is dedicated to the direct and indirect costs of bankruptcy. The costs of the insolvency trustee and the costs of using external advisors are identified as the most important direct bankruptcy costs. The third chapter Describes the position of the insolvency trustee and his role in insolvency proceedings, including the method of its remuneration. The Author analyzes whether the set calculation of the insolvency administrator's remuneration deals with the problem of the principal – agent problem and whether it motivates the trustee to undertake optimal decisions. In the fourth chapter, the author describes the difference between the basic and extraordinary activities of the insolvency trustee. Furthermore, the fourth chapter describes how the insolvency trustee can shift the costs of these activities to the insolvency estate. At the end of the chapter, the author analyzes the arguments of the insolvency trustee for approval of the costs of external advisors from a recent insolvency case.

## **Keywords:**

Bankruptcy Costs; Insolvency Proceedings; Bankruptcy Law; Remuneration of the Insolvency Trustee; Expenses for External Advisors; Direct and Indirect Bankruptcy Costs