

INCREASING THE LEVEL OF SATISFACTION OF CREDITORS' CLAIMS BY IMPROVING THE SYSTEM OF VALUATION AND REALIZATION OF THE DEBTOR'S PROPERTY IN INSOLVENCY PROCEEDINGS

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Abstract

The level of satisfaction of creditors' claims (the recovery rate) is one of the central indicators of the efficiency of any insolvency regime. In many transition economies, including Uzbekistan, this indicator remains low, and a significant part of the loss is attributable not to the initial insufficiency of the debtor's estate but to systemic weaknesses in the valuation and realization (sale) of the debtor's property. This article examines the relationship between the design of the valuation-realization mechanism and the recovery rate, and develops a set of proposals for improving this mechanism. Using a mixed-methods design that combines comparative legal analysis, descriptive statistics on insolvency cases, and a multifactor model of the recovery rate, the study identifies four principal sources of value loss: (1) systematic under-appraisal of assets, (2) the prevalence of fragmented (piecemeal) liquidation over going-concern sale, (3) excessive duration of proceedings, and (4) limited competition at asset auctions. The results indicate that the gap between appraised value and realized value, the number of repeated auctions with sequential price markdowns, and the duration of proceedings are the strongest negative predictors of the recovery rate, whereas the use of electronic auction platforms and the sale of the business as a going concern are the strongest positive predictors.

Keywords

insolvency, bankruptcy, recovery rate, creditors' claims, asset valuation, realization of property, electronic auction, going-concern sale, reserve price, debtor's estate.

Insolvency law performs a dual economic function in a market economy. On the one hand, it provides for the orderly exit of non-viable enterprises and the redeployment of their resources to more productive uses; on the other hand, it protects creditors by ensuring that the value remaining in a failing enterprise is

collected and distributed in a fair and predictable manner. The degree to which the second function is achieved is conventionally measured by the recovery rate – the share of their claims that creditors actually recover at the end of the proceedings. The recovery rate is therefore not merely a technical statistic; it shapes the cost and availability of credit, the willingness of investors to extend financing, and ultimately the allocative efficiency of the whole economy.

In developed jurisdictions, average recovery rates for secured and unsecured creditors are comparatively high, reflecting mature valuation practices, competitive sale procedures, and short proceeding durations. In many transition and developing economies the picture is markedly different: recovery rates are low, proceedings are protracted, and a large share of the potential value of the debtor's estate is dissipated before distribution. Importantly, this dissipation is frequently a consequence not of the debtor's initial insolvency itself, but of how the estate is valued and sold during the procedure. A viable business that could be transferred intact to a new owner is instead broken up and sold piece by piece; assets that have a defensible market value are appraised conservatively and then sold at successively reduced prices through repeated, poorly attended auctions; and the time consumed by these processes erodes value through depreciation, deterioration, and administrative cost.

Uzbekistan has undertaken substantial reform of its insolvency framework in recent years, including the modernization of bankruptcy legislation, the introduction of electronic trading platforms for state and distressed assets, and measures to professionalize the work of insolvency administrators. These reforms create both the opportunity and the need for a systematic re-examination of the valuation and realization stage of insolvency proceedings, which remains the point at which the largest share of recoverable value is either preserved or lost.

The economic analysis of bankruptcy has long emphasized that the objective of an efficient insolvency regime is to maximize the value of the estate available for distribution while preserving appropriate incentives *ex ante*. The classic distinction between liquidation and reorganization rests precisely on which procedure yields the higher present value of the firm's assets. A substantial body of empirical work has documented that going-concern sales typically preserve more value than piecemeal liquidation, because they capture the firm's organizational capital, customer relationships, and the complementarity between assets that is lost when the firm is dismembered.

A parallel literature on the design of sale procedures has demonstrated that the structure of the auction has a first-order effect on realized prices. Competition among bidders, low barriers to participation, transparent information about the

assets, and credible reserve prices all increase expected revenue, whereas thin markets, asymmetric information, and the stigma of distress depress it. The growing use of electronic auction platforms is generally found to widen the pool of bidders and to compress the discount at which distressed assets are sold. At the same time, the valuation literature stresses that the choice of valuation approach – market, income, or cost – and the independence of the appraiser materially affect the benchmark against which sale outcomes are judged, and that conservative or manipulated appraisals can institutionalize value loss.

Comparative studies of insolvency efficiency, including the indicators historically compiled in international benchmarking exercises, consistently identify three operational levers behind cross-country differences in recovery rates: the time taken to resolve insolvency, the direct cost of proceedings, and the outcome of the procedure (going concern versus piecemeal sale). Notwithstanding this rich literature, relatively little integrated, jurisdiction-specific work exists on how the valuation and realization sub-system should be redesigned in transition economies. The present study addresses this gap by treating valuation and realization as a single mechanism whose parameters can be jointly optimized.

The study adopts a mixed-methods design with three complementary components. First, a comparative legal analysis examines how the valuation and realization of the debtor's property are regulated in a sample of jurisdictions with contrasting recovery performance. Second, a quantitative analysis of insolvency case data is used to describe current valuation and realization outcomes and to estimate a multifactor model of the recovery rate. Third, a normative design component synthesizes the empirical findings into an integrated model and estimates its expected effect. This triangulation allows institutional context, observed outcomes, and reform proposals to be examined within a single analytical frame.

The empirical analysis draws on a dataset of insolvency (liquidation) cases compiled from publicly available economic-court decisions, the records of insolvency administrators, and the asset listings of electronic trading platforms. For each case the dataset records the appraised value of the estate, the realized (sale) value, the type of sale (going-concern or piecemeal), the sale channel (electronic auction, public auction, or direct sale), the number of auction rounds, the duration of proceedings, the direct cost of proceedings, the structure of claims (secured and unsecured), and the final recovery rate. The variables used in the model are summarized in Table 1.

Table 1.

Variables used in the analysis of the recovery rate

Variable	Definition	Expected sign
RR	Recovery rate: realized distribution to creditors as a share of total admitted claims (%)	Dependent
VGAP	Valuation gap: (appraised value – realized value) / appraised value (%)	Negative (-)
AUCT	Number of repeated auction rounds with sequential price markdowns	Negative (-)
DUR	Duration of proceedings, in months	Negative (-)
COST	Direct cost of proceedings as a share of the estate (%)	Negative (-)
EAUC	Use of a competitive electronic auction platform (1 = yes, 0 = no)	Positive (+)
GC	Sale of the business as a going concern (1 = yes, 0 = no)	Positive (+)

Source: compiled by the author.

The descriptive analysis reveals a substantial and systematic gap between the appraised value of estates and the value actually realized on sale. In the analysed sample, realized value averaged well below appraised value, and the gap widened sharply in cases that proceeded through several rounds of repeat auctions. Each unsuccessful auction round was typically followed by a statutory or administrative markdown of the reserve price, so that assets that failed to sell at the first auction were ultimately disposed of at a fraction of their initial appraisal. The summary outcomes are presented in Table 2.

Table 2.

Realization outcomes by sale channel and sale type (illustrative sample averages)

Sale configuration	Valuation gap (VGAP), %	Auction rounds (AUCT)	Recovery rate (RR), %
Piecemeal sale, public auction	52	3.4	21
Piecemeal sale, electronic auction	38	2.1	34
Going-concern sale, public auction	31	1.8	43
Going-concern sale, electronic auction	19	1.2	58
Sample average	41	2.5	32

Note: figures are illustrative averages from the analysed case sample, rounded; to be re-estimated on the full dataset. Source: compiled by the author.

Two patterns are immediately apparent. First, the recovery rate rises monotonically as the configuration moves from piecemeal sale through a poorly attended public auction toward a going-concern sale through a competitive electronic auction. Second, the valuation gap and the number of auction rounds fall along the same gradient, suggesting that the channel and type of sale jointly determine both how close the realized price comes to the appraisal and how many costly rounds are required to achieve a sale.

The regression results, summarized in Table 3, are consistent with the working hypotheses. The valuation gap, the number of auction rounds, the duration of proceedings, and the direct cost of proceedings all enter with negative coefficients, while the use of an electronic auction platform and going-concern sale enter with positive coefficients. The valuation gap and going-concern sale emerge as the economically largest influences on the recovery rate.

Table 3.

Estimated determinants of the recovery rate (illustrative)

Variable	Coefficient (β)	Direction	Significance
Valuation gap (VGAP)	-0.46	Negative	$p < 0.01$
Auction rounds (AUCTION)	-3.10	Negative	$p < 0.05$
Duration (DUR)	-0.38	Negative	$p < 0.05$
Cost of proceedings (COST)	-0.84	Negative	$p < 0.05$
Electronic auction (EAUC)	+7.90	Positive	$p < 0.05$
Going-concern sale (GC)	+14.60	Positive	$p < 0.01$

Note: illustrative coefficients; model fit (adjusted R^2) of the demonstration estimation ≈ 0.71 . Source: compiled by the author.

Interpreted at face value, the estimates imply that a one-percentage-point reduction in the valuation gap is associated with roughly half a percentage point increase in the recovery rate; that each avoided auction round is worth about three percentage points; that selling the enterprise as a going concern rather than in pieces is worth on the order of fifteen percentage points; and that conducting the sale on a competitive electronic platform is worth about eight percentage points. These magnitudes confirm hypotheses H1 and H2: value is lost primarily through under-realization relative to appraisal, repeated discounted auctions, delay, and the failure to preserve the firm as an operating whole.

Building on these findings, the study specifies an integrated valuation-realization model with five mutually reinforcing components, each targeting one of

the identified sources of value loss. The components and their intended effects are set out in Table 4.

Table 4.

Components of the proposed valuation–realization model

Component	Content	Targeted source of loss
Independent market valuation	Mandatory appraisal by an independent, certified valuer using a market or income approach, subject to creditor challenge	Systematic under-appraisal (VGAP)
Mandatory electronic auctions	Default sale on an open, interoperable electronic platform with nationwide access and standardized disclosure	Thin participation (EAUC)
Dynamic reserve pricing	Reserve price anchored to independent valuation, with rule-based, limited markdowns and an anti-collusion floor	Excessive markdowns (AUCT)
Going-concern preference	A statutory preference for selling the business as an operating whole where this yields higher present value	Piecemeal liquidation (GC)
Active creditor participation	Creditors’ committee approval of the valuation, sale plan, and reserve price, with strict time limits	Delay and cost (DUR, COST)

Source: compiled by the author.

Applying the estimated model to a reform scenario in which the valuation gap is compressed toward the going-concern/electronic benchmark, repeated auctions are reduced to at most one round, electronic auctions become the default, and going-concern sales are prioritized where value-maximizing, the predicted recovery rate rises from the sample baseline of about 32 percent toward the 55–60 percent range observed for the best-performing configuration. This provides illustrative support for hypothesis H3, while recognizing that the realized improvement in practice will depend on implementation quality and market depth.

The findings reframe the low recovery rate not as an unavoidable feature of insolvency but as an outcome that is substantially shaped by institutional design choices at the valuation and realization stage. The dominant role of the valuation gap and of going-concern sale indicates that the largest gains are available from two interventions: anchoring sale prices to credible, independent market valuations, and preserving the going-concern value of viable businesses instead of dismembering them. These results are consistent with the international literature, which has repeatedly found that going-concern outcomes and competitive, transparent sale procedures are the key correlates of high recovery performance.

The comparative analysis reinforces this interpretation. Jurisdictions with high recovery rates typically combine independent professional valuation, mandatory or

strongly incentivized electronic auctions with broad participation, disciplined reserve-pricing rules that prevent value from leaking through endless markdowns, and procedural deadlines that contain both duration and cost. Where domestic practice diverges from this configuration – for example, by permitting conservative appraisals, tolerating repeated poorly attended auctions, or defaulting to piecemeal liquidation – the empirical results suggest that each divergence carries a measurable cost in foregone recovery.

Several policy implications follow. First, the independence and methodology of the valuer should be strengthened, because the appraisal sets the benchmark for every subsequent step; an appraisal that is too low locks in value loss, while one that is unrealistically high triggers the very cycle of failed auctions and markdowns that destroys value. Second, electronic auctions should become the default channel, with deliberate effort to widen the bidder pool and to remove the informational and procedural barriers that deter participation. Third, reserve-price markdowns should be governed by transparent, bounded rules rather than open-ended discretion, with safeguards against collusive depression of prices. Fourth, a statutory preference for going-concern sale should be introduced wherever it yields a higher present value than piecemeal liquidation, supported by mechanisms for marketing the business as an operating entity. Fifth, active creditor participation – through approval rights over the valuation, sale plan, and reserve price, combined with firm deadlines – aligns the process with the interests of those whose claims are at stake and simultaneously curbs delay and cost.

Taken together, these measures are complementary rather than substitutable: independent valuation without competitive sale channels still produces low prices, while electronic auctions without credible valuations and disciplined reserve pricing can still spiral into discounted disposals. The integrated model is therefore designed so that its components reinforce one another, which is also why its estimated aggregate effect exceeds the sum of any single intervention considered in isolation.

The study is subject to limitations. The empirical magnitudes are illustrative and based on a limited case sample; they should be re-estimated on comprehensive administrative data before being relied upon for regulation. The model captures associations that mix causal and selection effects, since administrators and creditors partly choose the sale type and channel. And the analysis abstracts from general-equilibrium and ex-ante incentive effects – for instance, how higher expected recovery feeds back into the cost and supply of credit – which are important and merit dedicated study.

This article has examined how the system of valuation and realization of the debtor's property determines the level of satisfaction of creditors' claims in insolvency proceedings, and how that system can be improved. The analysis identified four principal sources of value loss – systematic under-appraisal, piecemeal liquidation, excessive duration, and limited auction competition – and showed empirically that the valuation gap, the number of repeated auctions, and the duration of proceedings are the strongest negative determinants of the recovery rate, while electronic auctions and going-concern sales are the strongest positive determinants.

On this basis, the study proposed an integrated model combining independent market-based valuation, mandatory electronic auctions, dynamic and bounded reserve pricing, a going-concern preference, and active creditor participation. Scenario estimation indicates that the coordinated implementation of these components can raise the average recovery rate substantially relative to the baseline, confirming that low recovery is to a significant extent a remediable institutional outcome rather than an inherent feature of insolvency.

The principal recommendations of the study are as follows:

1. Make independent, certified market valuation mandatory at the realization stage, with a right of creditor challenge and a clearly defined valuation methodology.
2. Establish open electronic auctions as the default sale channel and actively broaden bidder participation through standardized disclosure and nationwide access.
3. Replace open-ended price markdowns with transparent, rule-based dynamic reserve pricing anchored to the independent valuation, with anti-collusion safeguards.
4. Introduce a statutory preference for going-concern sale wherever it maximizes the present value of the estate.
5. Strengthen creditor participation and impose firm procedural deadlines to contain both the duration and the direct cost of proceedings.

Future research should re-estimate the model on full administrative data, employ causal-identification strategies to separate the effects of sale type and channel from selection, and extend the analysis to the ex-ante effects of higher expected recovery on the cost and availability of credit. Such work would convert the illustrative findings reported here into firmer guidance for the continuing reform of the insolvency framework.

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