

# Collection Profile Sweden



## Collecting in Sweden

- The payment behavior of domestic companies is good and domestic courts are fairly efficient in dealing with disputes in a timely manner, however collecting debt through pre-legal negotiation remains the most effective option.
- Recovering debt becomes very difficult when the debtor becomes insolvent, even though debt renegotiation schemes exist with a legal limitation of 75% write-off of the debt, clawback mechanisms and Retention of Title privileges. The priority rules set forth in liquidation proceedings make it unlikely for unsecured creditors to receive any part of the proceeds in case of liquidation.

## Collection complexity



## Complexity relating to

Notable → Severe

	Notable	High	Very High	Severe
Payments	\$	\$	\$	\$
Court proceedings	⚖️	⚖️	⚖️	⚖️
Insolvency proceedings	↘️	↘️	↘️	↘️



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## General information

### Availability of financial information

Financial information on domestic companies is fairly available and reliable in Sweden, as all Limited Liability Companies are obliged to disclose financial statements, which are made public. Euler Hermes in Sweden cross-verifies financial information on domestic companies with credit information providers, and allocates each company a grade reflecting its financial health and how it conducts business. Grades represent a core of our knowledge and analyses, and help clients identify and avoid risk. Data is continuously monitored to offer the most up-to-date information to support management decisions.

### Main corporate structures

Liability for business debts is determined by legal structures, which are described as follows:

- Sole Proprietorship (enskild näringsverksamhet) is available for small businesses managed by an individual and for which no commercial structure is necessary. In this case, the owner is held liable for all business debts. Two or more individuals may also decide to share ownership and responsibilities through Partnerships (handelsbolag, HB), in which case the partners may be jointly and individually liable for the actions of the other partners. Limited Liability Partnerships (kommanditbolag, KB) alternatively offer limited liability to the partners.
- Limited Liability Companies (Privat Aktiebolag, AB) represent the majority of businesses in Sweden since they require minimal capital funds (SEK 50,000) while the partners' liability is limited to their contribution. Public Limited Companies (Publikt Aktiebolag, AB) are used for larger structures willing to divide their capital (at least SEK 500,000) into tradable shares. In these entities, the shareholders' liability is limited to the value of their shares.
- Foreign companies may alternatively settle in Sweden through Branch Offices (filial) which provide no liability limitations to the foreign parent company. Subsidiaries (dotterbolag) would rather be set up through Limited Liability Companies. Joint Ventures are also an option.

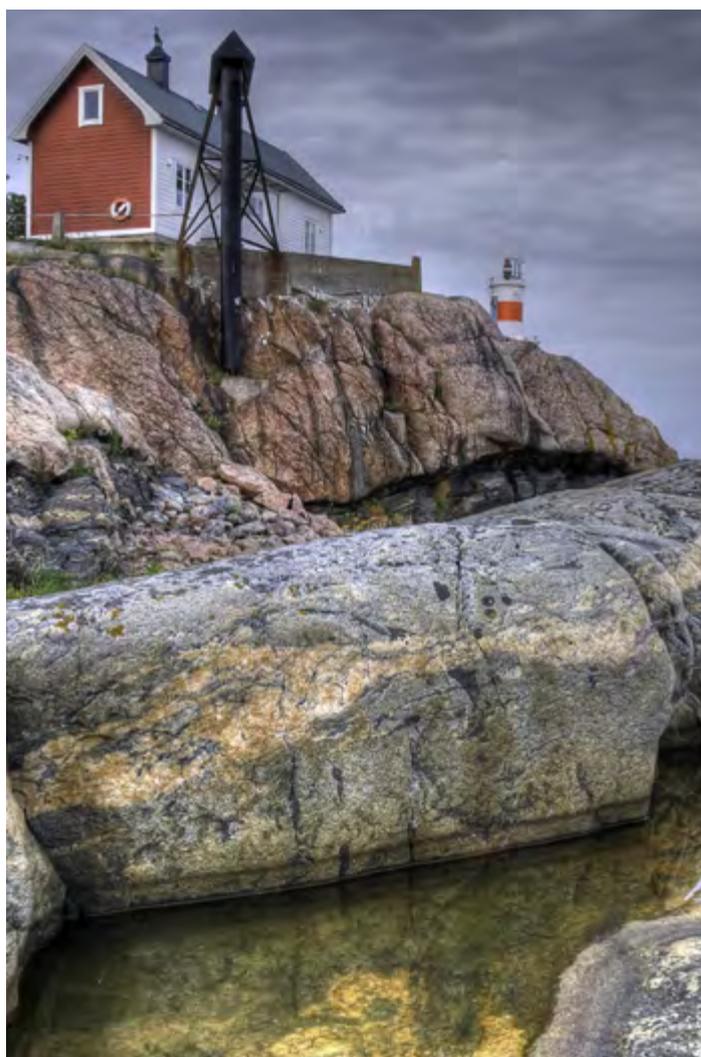
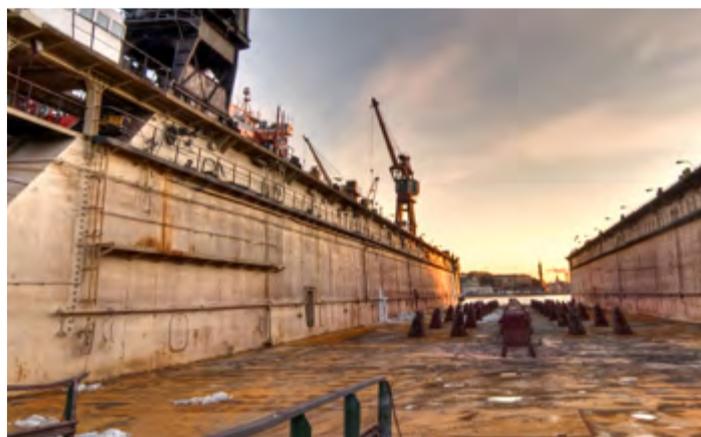
### Regulatory environment

The judiciary in Sweden divides into District Courts (competent to deal with all claims notwithstanding value considerations), Courts of Appeal and a Supreme Court. Business disputes are considered by specialized commercial divisions while administrative disputes are dealt with before administrative tribunals. The rules are essentially codified and supported by case law evolutions.



#### Days Sales Outstanding

**(DSO):** Payments in Sweden take place within 30 days on average and the payment behavior of domestic companies is very good.





#### **Late payment interest:**

Interest for late payment must be calculated on the basis of the repo rate of the Swedish Central Bank plus 8 percentage points.



## Getting Paid

### Days Sales Outstanding (DSO)

Payments in Sweden take place within 30 days on average and the payment behavior of domestic companies is very good. Delays are rare in practice. For listed companies, the DSO is slightly higher at 56 days.

### Late payment interest

Charging interest on late payment is fairly common in Sweden. Late payment interest is regulated under the Interest Law (Räntelagen (1975:635)). Unless a contract stipulates otherwise, interests for late payment must be calculated on the basis of the repo rate (reporäntan) of the Swedish Central Bank (Sveriges Riksbank) plus 8 percentage points. The Directive 2011/7/EU aiming at providing a harmonized framework against late payment practices in Europe has been transposed into the Interest Law through the Faster Payments Bill (Sw. Snabbare betalningar, prop. 2012/13:36), which states that payment in business-to-business transactions ought to occur within 30 days following the invoice's issuing date.

The domestic rule, therefore, is more demanding than the EU standard.

### Debt collection costs

Collection costs are regulated by law, with the opportunity to charge a flat fee of 450 SEK covering several debt collection actions. Charging this flat fee is not common and many businesses would rather charge a fee per each debt collection action.

## Ownership protection

Retention of Title (RoT) agreements aiming at preserving ownership over goods until the related invoice is paid in full is admissible in Sweden, as long as the goods have not been processed or sold to a third party (in good faith). These agreements may be relied upon as an opportunity to recover the goods or to exercise pressure while recovering debt during the pre-legal action phase.

## Payments

Bank transfers are among the most popular payment means for international transactions as they are fast, secured, and supported by an increasingly developed banking network internationally and domestically. For export transactions, transfers may be guaranteed through an Export Credit Insurance policy, which helps minimize the risk of sudden or unexpected customer insolvency. Euler Hermes' worldwide network of risk offices monitors the financial well-being of customers and grants them a specific credit limit up to which clients may trade and claim should something go wrong. Standby Letters of Credit (a bank guarantees the debtor's credit quality and repayment abilities) may also be used as an instrument of last resort. In relation to export shipments, irrevocable and confirmed

Documentary Letters of Credit (a debtor guarantees that a certain amount of money is made available to a beneficiary through a bank once certain terms, specifically agreed by the parties, have been met) are commonly relied upon.

Bank guarantees may otherwise be obtained at a fairly reasonable price. Checks, bills of exchange and promissory notes are not common since they do not offer efficient guarantees.

## Collecting overdues

### Amicable action

#### Negotiating

Swedish courts are very efficient; however, amicable settlement opportunities constitute serious alternatives to formal legal proceedings. In addition, before starting legal proceedings against a debtor, assessment of assets is important as it allows verification as to whether the company is still active and whether recovery chances are at best. In addition, it is essential to be aware of the debtor's solvency status: if insolvency proceedings have been initiated, it indeed becomes impossible to enforce a debt (see below).

### Legal action

#### Ordinary proceedings

When the debt is certain and undisputed, and provided that the debtor's assets are traceable, creditors may first rely on fast-track proceedings. An injunction of payment application (Betälningsföreläggande) may be filed with the Swedish Enforcement Administration (kronofogdemyndigheten) 12 days after the collection letter was sent to the debtor. If the injunction is granted, the debtor will be given two weeks to reply or it will be added to the official registers, thus most likely degrading their creditworthiness. If the claim for payment is not disputed, the Swedish Enforcement Authority (Kronofogdemyndigheten) may also issue a Payment Order (without any hearings of the parties required), which becomes fully enforceable four to twelve weeks later by the Authority. The execution cost is SEK 300. If a debtor opposes the Order, the creditor normally has ten days to file a request for the case to be heard by the Court through an ordinary lawsuit.

If the amicable phase fails or if the debtor questions the claim, the option of starting legal proceedings remains. Legal action would commence with the filing of a claim with the District Court, which then serves the debtor with Summons. The debtor must bring a defense within a couple of weeks, otherwise the creditors would be entitled to request a default judgment from the court. The parties would then exchange arguments and a hearing would be set up by the court prior to making a decision. The courts are to decide on remedies for damages, interest, litigations and also punitive damages. Where the debtor company is present in other EU Member States and provided that the debt is undisputed, the District Courts are also able to issue a European Payment Order enforceable in all European Union countries (except Denmark) without exequatur proceedings (Regulation 1896/2006/EC).

#### Necessary documents

In order to commence legal action, invoices, statement of account, delivery notes and any other documents that evidence the creditors' rights are required.

#### Time limitations

Commercial claims must usually be brought within ten years. Such time limitations are considered substantive legal requirements, therefore failure to abide by the rules would bar access to court.

#### Precautionary measures

Precautionary measures may help preserve the creditor's interests pending a final decision. Upon request, the courts would typically order provisional measures aiming at preserving the status quo and at avoiding irreparable damage (attachment of the debtor's assets, mandatory injunctions to do something, prohibitory injunctions to prevent from doing something, protection of rights, etc.). It would, however, be necessary to demonstrate that the claim has a good chance to succeed and that damages alone would not suffice in the absence of precautionary measures. In emergency situations, the court may make its decision ex parte (i.e. without the debtor being present), however the court would usually request that the claimant provides security on costs in order to protect the respondent from irresponsible action.

#### Lodging an appeal

Decisions rendered in the first instance may be appealed within three weeks of notification, provided that the court grants a leave for appeal to the claimant. The Court of Appeal then reviews the claim taking both questions of law and fact into account. The decisions rendered in second instance may furthermore be appealed before the Supreme Court, provided that a legal interpretation issue is at stake.

#### Enforcing court decisions

A judgment is enforceable as soon as it becomes final (i.e. when all appeal venues have been exhausted). If the debtor fails to pay, it is possible to request the Enforcement Authority (Kronofogdemyndigheten) to seize and sell the debtor's assets.

#### How long could legal action take?

Undisputed cases that are brought to the District Court (tingsrätten) will take approximately one month. If the case is disputed, however, the courts could give a judgment within one year.

#### Collection @ Euler Hermes

It is always advised to attempt collection prior to any legal action in order to maximize chances of successful recovery and avoid legal costs and delays. Our key principle is to collect in close proximity to the debtor, using a series of letters, emails and phone calls in the local debtor language. Our World Collection Network of Euler Hermes offices and external providers are experts in professional trade debt collection and negotiation, ensuring positive outcomes while retaining important client relationships. Euler Hermes can handle the complete collections process from amicable, pre-legal action through to judgment and enforcement.

In principle, domestic courts do not take longer to deal with cases involving a foreign party than to deal with cases involving domestic parties only. In practice, some extra delays may nonetheless occur depending on the complexity of each case, for instance if a complex foreign law rules the transaction, if foreign witnesses or experts must be heard, etc.

#### How much could this cost?

As a general rule, the defeated party would be required to pay part of the court and legal costs incurred by the successful party.

### Alternatives to legal action

#### Alternative Dispute Resolution methods (ADR)

Alternative Dispute Resolution methods are not necessary in relation to debt disputes since the domestic courts are efficient in delivering timely decisions. ADR under the Arbitration Act (Lagen om skiljeförfarande) is nonetheless common in Sweden, where mediation and arbitration are considered as a means to obtain decisions in a confidential and efficient manner.

Mediation involves the nomination of a mediator who is given responsibility for helping the parties reach a compromise. In other words, the mediator has no authority to decide on the behalf of the parties and they cannot bind the parties with a decision. An agreement is only binding if a settlement agreement is entered into between the parties at the end of the mediation. The mediator indeed acts as a facilitator to settlement.

Arbitration involves the parties agreeing to rely on an independent and impartial third-party arbitrator, who is given authority to settle their dispute on their behalf. The arbitrators' decision will be binding on the parties.

As an out-of-court settlement method, ADR can be cost-effective, generally reduces delays, allows preserving confidentiality and offers a binding decision which may then be enforced before the courts, if necessary. When international transactions are involved, international arbitration may also be considered. The Stockholm Chamber of Commerce is particularly renowned for its competence on the matter.

#### Foreign forums

Again, a foreign forum in relation to debt litigation is not necessary in Sweden, but it may be noted that the country is a signatory to the Rome I Regulation on the law applicable to contractual obligations, which stipulates that the parties to a contract may, by mutual agreement, choose the law applicable to their contract, and select the court that will have jurisdiction over disputes. Sweden is also a signatory to the Hague Convention of 15 June 1955 on the law applicable to international sale of goods, which stipulates that contracts shall be governed by the law chosen by the parties, the general spirit of the agreement and the circumstances of the case. However, domestic courts would typically retain exclusive

jurisdiction over specific areas of law (bills of exchange and checks, real estate, etc.).

It is essential that the agreement be characterized by an international connection (for example, one party has elected domicile in another country, or the place of execution is located abroad), and that a jurisdiction clause is specifically drafted for this purpose.

#### Enforcing foreign awards

As previously mentioned, use of foreign forums in order to obtain enforceable decisions against local debtors is rather unusual. Nonetheless, foreign decisions issued against foreign debtors may be enforced in certain circumstances.

On one hand, decisions rendered in an EU country would benefit from particularly advantageous enforcement conditions. Apart from EU Payment Orders which are normally enforceable directly in domestic courts, the two main methods of enforcing an EU judgment in Sweden are by the use of an European Enforcement Order (EEO, as provided under Regulation EC No. 805/2004) when the claim is undisputed, or by registering the judgment under the provisions of the Brussels I Regulation (44/2001).

If the judgment qualifies as an uncontested claim, it can be enforced directly (i.e. without registration) by use of an EEO provided that the debtor has identified assets in the country. A European Small Claims Procedure (as provided by Regulation EC 861/2007) aiming at eliminating intermediate steps may similarly be relied upon while enforcing decisions up to EUR 2,000. If the claim is disputed, the procedure for registering an EU judgment with domestic courts is relatively simple. The judgment holder must apply to the relevant court for the judgment to be registered and provide the court with, among other documents, an authenticated copy of the judgment, a certified translation and, if interest is claimed, a statement confirming the amount and rate of interest at the date of the application and going forward. Once the judgment has been registered, it can be enforced as if it were issued by domestic courts (according to the Recast Regulation EC 1215/2012, such an exequatur procedure is no longer required from January 2015).

On the other hand, judgments issued in non-EU countries would be recognized by the Svea Court of Appeal and enforced provided that the issuing country is party to a reciprocal recognition and enforcement treaty with Sweden.

#### Litigation @ Euler Hermes

Should legal action be necessary, Euler Hermes can provide support throughout the legal process from judgment to enforcement via our World Collection Network of Euler Hermes offices and external providers. Legal action can often be complicated and expensive, so you will be informed of all costs prior to any action and advised on which route is best to take.

## Handling insolvent debtors

Swedish insolvency law does not possess a coherent body of legal rules, though insolvency is defined in the Swedish Bankruptcy Act (1987:672) as being unable to pay one's debts in a proper manner where such inability is not temporary. Insolvent persons can be declared bankrupt (i konkurs) irrespective of whether they are legal or natural persons.

### Insolvency proceedings

#### Out-of-Court proceedings

Both companies and private individuals can enter into voluntary and confidential arrangements with creditors in order to renegotiate their debt. Such arrangements are not specifically regulated by law, though they are treated in the same way as other forms of agreement.

#### Restructuring the debt

Under the Company Reorganization Act (1996:764), companies deemed unable to pay their debts can apply for reorganization (rekonstruktion) as long as there are reasonable grounds to believe that the reorganization can achieve its purpose. An administrator (rekonstruktör) is appointed to supervise the company while the parties negotiate a debt restructuring plan (ackord) under which up to 75% of the debt may be written off.

During the reconstruction period, a moratorium is set up to prevent payment of old debts occurred before the proceedings. A reconstruction takes three to six months and can be postponed an additional twelve months.

#### Winding up proceedings

When the debtor's assets cannot compensate the debts, the creditors may file a bankruptcy (konkurs) petition with the court. A preliminary administrator is appointed to assess the economic situation of the debtor company and to establish a list of the creditors. The company's assets are then sold, while the proceeds are distributed to the creditors according to their respective priority ranks.

When the debtor's assets can cover its debt, by contrast, the debtor may voluntarily file for 'Likvidation,' in which case the court would conduct the selling of the company's assets as it deems necessary to cover the debt. A compulsory liquidation process (tvångslikvidation) may also be considered in certain specific circumstances.

#### Priority rules

Complex priority rules normally apply while distributing the proceeds of the sale of the debtor's assets to the creditors. Secured debts (such as debts incurred as a result of the insolvency proceedings) would typically be settled first. The employees' claims (allmän förmånsrätt) would follow, while unsecured creditors would be considered last and, in practice, their debts are rarely settled.

#### Cancellation of suspect transactions (clawback)

Liquidators are normally entitled to request the court to cancel suspect transactions concluded prior to insolvency proceedings. In particular, any measure taken by the debtor deemed fraudulent or detrimental to the creditors would typically be void. A suspect period of up to five years may apply.

#### Necessary documents

In order to commence with legal action, copies of invoices, statement of account and delivery notes will be needed to prove and reinforce the creditors' rights.



#### Insolvency @ Euler Hermes

Euler Hermes works closely with debtors, creditors and lawyers to provide support during insolvency and restructuring processes. With many options available when it comes to insolvency action, we can offer advice on which option is most suitable.

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