

# Stibbe

## TWENTY-FIFTH PUBLIC LIQUIDATION REPORT

Date: 17 January 2017

Company details	N.V. De Indonesische Overzeese Bank (The Indonesia Overseas Bank) (" <b>Indover</b> ")
Liquidation number	08.0579 – F
Date of bankruptcy order	1 December 2008
Trustees in bankruptcy	<i>mr. A. van Hees</i> and <i>mr. drs. C.M. Harmsen</i>
Delegated judge	<i>mr. W.F. Korthals Altes</i>
Business activities	Banking
Consolidated turnover in 2007	EUR 20,498,000
Reporting period	1 June 2016 to 31 December 2016 inclusive

## TWENTY-FIFTH PUBLIC LIQUIDATION REPORT – OUTLINES

### (A) General

In the first twenty-four public liquidation reports, the trustees in bankruptcy (the "**Trustees**") reported on their work during the period from the bankruptcy date (1 December 2008) to 31 May 2016 inclusive. In this public liquidation report, the Trustees report on the work that they have performed during the period from 1 June 2016 to 31 December 2016 inclusive.

### (B) Indover Asia Limited

The Hong Kong company Indover Asia Limited ("**IAL**") is Indover's sole remaining subsidiary. Indover holds 100% of the shares in IAL.

As of 31 December 2010, IAL was placed in members' voluntary liquidation by means of a shareholder decision which the Trustees took on behalf of Indover. Derek Lai and Darach Haughey from Deloitte Touche Tohmatsu in Hong Kong have been appointed as IAL's liquidators.

IAL's liquidators are continuing their efforts in and out of court to obtain payment of the non-performing loans ("**NPLs**").

IAL's liquidators also took care of collecting IAL's sole outstanding (performing) loan. This loan has been fully repaid.

See also paragraphs 3.12 and 3.13 below for more on IAL.

# Stibbe

## (C) Claim validation proceedings

The only claim proceedings still remaining are those relating to the claim submitted by Bank Indonesia ("BI") (no. 3 on the list of provisionally disputed claims) in the amount of EUR 43,542,510.95 (see below, paragraph (D)). The Trustees have reserved a sum in the amount of 81% (being the dividend paid to unsecured creditors until now) of this disputed claim in case it is irrevocably established that BI's claim has to be acknowledged.

## (D) Proceedings against Bank Indonesia

In the claim validation proceedings between the Trustees and BI, the Trustees filed a counterclaim. In the counterclaim proceedings, the Trustees are claiming – in brief – compensation from BI so that all of Indover's creditors can be fully paid. The Trustees base their claim on, *inter alia*, various promises from BI that boil down to that BI would ensure that Indover will continue to be able to meet its obligations. On 27 August 2014, the Amsterdam District Court delivered its final judgment. The Court upheld BI's claim for validation of its claim on Indover and dismissed the Trustees' counterclaim.

Briefly summarized, the Court held that the various promises and support provided by BI over the years had as sole purpose to (i) resolve the current, specific problems Indover experienced as from 1998 resulting from the Asia crisis and (ii) the necessary after-care. According to the Court, Indover was not allowed to trust that BI would take more measures than it had actually taken in the past. More in particular, BI would not have been obliged to also ensure that Indover would meet its obligations during the 2008 financial crisis. The Court held that BI has not acted in tort vis-à-vis Indover's creditors either, since the creditors would not have been allowed either to expect more support from BI to Indover than the support BI had already provided.

The Trustees have obtained advice from their lawyers on whether or not to go into appeal. Based on this, the Trustees have concluded that there is sufficient reason to go into appeal. After having obtained a positive advice from the creditors' committee and the authorization of the delegated judge, the Trustees launched an appeal against the judgment by writ of summons dated 26 November 2014. The Trustees submitted their grounds for appeal on 23 June 2015. BI has submitted its defence on appeal including a notice of cross-appeal on 22 March 2016. In its cross-appeal, BI protests the considerations and decisions of the court of first instance regarding BI's claim of immunity from execution. The Trustees have submitted their defence on the cross-appeal with the Court of Appeal on 5 July 2016. The court session will take place on 24 January 2017.

As mentioned in paragraph (C) above, in earlier distributions to Indover's creditors, the Trustees have always reserved an amount for BI in case the Trustees' claim would not be allowed by the Courts. Should the Trustees be obliged to make a distribution to BI, this distribution will thus not affect payments already received by other creditors.

See, as regards the course of the proceedings, also the previous public liquidation reports.

## 1. INITIAL OVERVIEW

### 1.1. Management and organisation

See also the previous public liquidation reports.

# Stibbe

## 1.2. Profit and loss

The cumulative loss over the period 6 October 2008 (the date that emergency regulations were applied to Indover) to 31 December 2015 inclusive amounts to rounded EUR 248,3 million. This amount is based on the Trustees' own calculations. The cumulative loss can be attributed to the losses that were sustained in the seizure and execution of collateral security provided by Indover, and as a result of the early termination of financial derivatives. Furthermore, interest had to be paid on acknowledged claims, accounts receivable have been written off, losses have been realised on the investment portfolio and the foreign currency positions, and liquidation costs have been incurred in the bankruptcy.

## 1.3. Balance sheet

The remaining assets consist primarily of liquid assets (as of 31 December 2016 a total of approximately EUR 46,661 million). The Trustees have reserved EUR 43,543 of these liquid assets in light of BI's disputed claim. From the remainder the Trustees are paying the costs of the further winding up of the bankrupt estate of Indover. In this regard, one might think of the costs relating to the legal proceedings against BI and the settlement of the remaining loans including in particular the NPLs. The remaining assets consist of the IAL participation and several outstanding loans. Against this are the remaining debts to creditors.

The liquid assets have been placed on deposits at several Dutch banks.

Depending on the outcome of the legal proceedings against BI, the assets may yet increase (significantly).

## 1.4. Current legal proceedings

In addition to the proceedings against BI reported in paragraphs (C) and (D) above, there are currently no other pending proceedings. In relation to the proceedings to which Indover has been involved as a party, the Trustees state the following.

As stated in paragraph 1.4 of the fourth public liquidation report, Indover's claim for payment of an amount of USD 905,009.10, plus interest and costs, in the proceedings on the merits against Mr. Manohar, has been allowed. No appeal has been lodged against this judgment. Because Mr Manohar refused to pay the claim to the Trustees, the Trustees have filed an application to have Mr Manohar declared bankrupt in Singapore. This application has been allowed. The Trustees maintain contacts with the Insolvency & Public Trustee's Office ("IPTO"), who has informed the Trustees that the liquidation of Mr Manohar's assets is ongoing, but the process has been complicated because some of Mr Manohar's assets are located abroad (for the IPTO). The IPTO had informed the Trustees in February 2016 that an interim dividend will be paid to Mr Manohar's creditors. After the Trustees had inquired several times why the payment of the interim dividend was being withheld, they sent a written demand for payment to the IPTO in December 2016. The IPTO responded that it is still working on the liquidation of the assets and requested the Trustees not to take legal action at this time. The Trustees are closely monitoring the further progress in order to obtain the interim dividend payment as soon as possible.

It has been reported previously that Indover had won two of the three proceedings that Kaltimex had initiated against Indover in Indonesia before the Indonesian Supreme Court.

# Stibbe

The claims brought by Kaltimex were dismissed in all three proceedings. Hence, the current state of affairs is that Indover still has outstanding claims against Kaltimex and Bena Kutai (surety of Kaltimex). These claims are (partially) secured by a right of mortgage, but had already been fully written off by Indover. The Trustees have been approached by a party who claims to have obtained the ownership of one of the mortgaged properties from Kaltimex with a request for a settlement. The Trustees will investigate whether they can reach an agreement with this party. In the light of this they are first having the mortgaged property appraised. In practice, the appraisal appears to be complicated, amongst other things because the appraiser wishes to be accompanied by an Indover employee, who are no longer available. The Trustees and their Indonesian legal counsel are looking for a solution.

See also the previous public liquidation reports.

## 1.5. Insurance

See the previous public liquidation reports.

## 1.6. Lease

See the previous public liquidation reports.

## 1.7. Cause of bankruptcy

See the previous public liquidation reports.

## 2. EMPLOYEES

### 2.1. Date of notice of dismissal

Indover no longer has any employees since the administrative work has been completed. As of 1 February 2011, the accounts of the bankrupt estate are being kept by a former employee of Indover on the instructions of the Trustees, currently on an on-call basis.

### 2.2. Work

See above, paragraph 2.1.

## 3. ASSETS

### Real estate

Paragraphs 3.1 through 3.4: see the previous public liquidation reports.

### Operating assets

Paragraphs 3.5 through 3.8: see the previous public liquidation reports.

### Stock/work in progress

Paragraphs 3.9 through 3.11: see the previous public liquidation reports.

# Stibbe

## Other assets

### 3.12. Description

The assets that still have to be realised consist of a number of claims and the IAL holding (as regards IAL, see above at paragraph (B)). The book value of the remaining outstanding loans provided by Indover as of 31 December 2016 is approximately EUR 186.358,51. It is uncertain whether it will be possible to realize this value.

The other assets consist of NPLs of Indover that have been entirely written off.

The ultimate proceeds that can be realised by liquidating IAL will depend in part on the collection of claims of IAL and the amount of the settlement costs. For the moment, it is not possible to reach a reliable estimate of the eventual proceeds from the liquidation of IAL.

On 31 December 2016, IAL's liquid assets amounted to approximately EUR 1,9 million.

### 3.13. Proceeds of sale

-

### 3.14. Work

-

## 4. DEBTORS

Paragraphs 4.1 through 4.3: in connection with the termination of the activities of the rump bank as at 31 December 2010, the management and liquidation of the remaining loans were taken over by members of the Trustees' team. There were still two outstanding loans that had not been written off. Both loans expired at the end of 2014 (after a prior extension with one year). As the debtors proved unable to refinance the loans provided to them, the Trustees contacted them to discuss a possible extension of these loans. Agreement has been reached with both debtors on the conditions for an extension until 1 July 2015. During that period the loans will be repaid according to an agreed repayment schedule to the extent possible. On 31 August 2015, one of the two loans has been fully repaid. On 1 July 2016, the other loan was extended again until 1 July 2017.

See also above, paragraph 3.12, as well as the previous public liquidation reports.

## 5. BANK / COLLATERAL

Paragraphs 3.1 through 5.8: see the previous public liquidation reports. There are no special circumstances to report on these matters.

## 6. RESTART / CONTINUATION

Paragraphs 6.1 through 6.6: see the previous public liquidation reports.

# Stibbe

## 7. LEGAL COMPLIANCE

Paragraphs 7.1 through 7.6: see the previous public liquidation reports.

## 8. CREDITORS

Paragraphs 8.1 through 8.7: see the previous public liquidation reports.

## 9. OTHER

### 9.1. Liquidation period

See the previous public liquidation reports.

### 9.2. Investigation by Dutch Tax Authorities

In August 2015, the Dutch Tax Authorities announced an investigation of the turnover tax paid by Indover in the period 2010 to 2014 inclusive. The Trustees and the Dutch Tax Authorities were also discussing the turnover tax that will be charged from 1 July 2016. The Dutch Tax Authorities have imposed an additional VAT assessment for the years 2010 to 2014 inclusive to the amount of (rounded) EUR 9,000.-. As regards the turnover tax that will be charged from 1 July 2016, the Trustees will continue abiding by their policy of the past years.

### 9.3. Plan of action

The work of the Trustees in the next reporting period will largely consist of winding up and liquidating IAL (see above, paragraph (B)), the administration and settlement of the remaining credits, conducting the claim validation proceedings against BI (see above, paragraphs (C) and (D)) and consultations about further steps in relation to Manohar and Kaltimex/Bena Kutai (see above, paragraph 1.4).

Creditors whose address and bank details changed when compared with the data previously communicated to the Trustees are requested to inform the Trustees thereof as soon as possible.

### 9.4. Submission of the next report

The Trustees will endeavour to issue the following public liquidation report concerning the position of the bankrupt estate within six months. The following public liquidation report can be expected in July 2017. The public liquidation reports and any additional information will be made available for consultation by creditors on the website [www.stibbe.com/indover](http://www.stibbe.com/indover).

### Status of the report

This public liquidation report is based on the information which has come to the Trustees' attention during the reporting period. Further information may lead to new findings. This means that the contents of this report or the financial information appended to this report may be adapted at any time. Consequently, no rights may be derived from this public liquidation report or from the appendices to this public liquidation report.

# Stibbe

Amsterdam, 17 January 2017

*mr.* A. van Hees  
Trustee in bankruptcy

*mr. drs.* C.M. Harmsen  
Trustee in bankruptcy