

Notice from the trustees in bankruptcy of N.V. De Indonesische Overzeese Bank (The Indonesia Overseas Bank) ("Indover")

To: The creditors of Indover

Amsterdam, 23 November 2017

Dear Madam/Sir,

On 14 November 2017 the Amsterdam Court of Appeal delivered its judgment in the appeal lodged by the bankruptcy trustees of Indover and Bank Indonesia ("BI") against the judgment of the Amsterdam District Court of 27 August 2014. Like the District Court, the Court of Appeal upheld BI's claim for validation of its claim on Indover and dismissed the trustees' counterclaim. Please see www.stibbe.com/indover for a link to an unofficial translation of the judgment.

BI filed a claim of more than € 43 million in Indover's bankruptcy for loans provided to Indover. The trustees argue that BI's claim has been set off against their counterclaim. The trustees are of the opinion that BI gave a guarantee to Indover that BI would ensure that Indover would be able to meet its obligations. The trustees primarily claim compensation of the damage suffered by Indover as a result of BI's breach of the guarantee. Alternatively, the trustees claim compensation of the damage suffered by Indover's creditors as a result of BI's breach of the creditors' trust in the guarantee. Among other things, the trustees base their claim with regard to the guarantee on a press release and a letter issued by BI stating that "*Bank Indonesia will ensure that Indover will meet its obligations*".

Very briefly summarized, the Court of Appeal holds that Indover never asked BI to guarantee that Indover would at all times be able to meet its obligations to third parties and that BI cannot be held to have undertaken such commitment (see legal ground 3.5.26). According to the Court of Appeal, this is reason to dismiss the principal claim and also to reject one of the grounds for the alternative claim (see legal grounds 3.5.26 and 3.6.5). For the rest, the alternative claim fails because it falls beyond the scope of authority conferred to the trustee in bankruptcy to bring a claim for damages on behalf of the joint creditors in bankruptcy against a third party implicated in prejudicing the creditors' possibilities of recourse (see legal ground 3.6.6).

The trustees are currently studying and analysing the judgment. Together with the creditors' committee and the delegated judge they will decide whether to appeal to the Supreme Court. Announcements with regard to this subject will be placed on the website.

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. This amount has been calculated on basis of the percentage of BI's claim that is equal to the percentage of the claims of the other admitted creditors that already has been paid out to them. Therefore, should the trustees be obliged to make a distribution to BI, this will not affect payments received by other creditors.

The bankruptcy trustees