

**THIRTY-FIRST PUBLIC LIQUIDATION REPORT**

Date: 8 May 2019

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	23 January 2019 to 30 April 2019 inclusive

**THIRTY-FIRST PUBLIC LIQUIDATION REPORT – OUTLINES****(A) General**

In the previous thirty public liquidation reports, the trustees in bankruptcy (the "**Trustees**") reported on their work during the period from the bankruptcy date (1 December 2008) to 22 January 2019 inclusive. In this public liquidation report, the Trustees report on the work that they performed during the period from 23 January 2019 to 30 April 2019 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.

The remaining claims arising out of non-performing loans ("**NPLs**") were collected in the previous reporting period and for the rest written off (see paragraph 1.4 below).

The liquidators of the 100% subsidiary company IAL, with its registered office in Hong Kong, also took care of collecting IAL's sole outstanding (performing) loan. This loan has been repaid in full.

See also paragraph 3.12 below for more on IAL.

## **(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. The reserved amount is EUR 35,269,433.87.

BI's claim in itself is acknowledged by the Trustees, however the Trustees believe that they have a much higher counterclaim against BI regarding a guarantee given by BI. See below under (D). The Trustees have therefore invoked a set-off of BI's claim on the estate against this (higher) counterclaim, and dispute that any amount is still payable to BI after the set-off.

## **(D) Proceedings against Bank Indonesia**

The object of these proceedings is to obtain full payment of the claims of all creditors, plus interest. To this end, the Trustees invoke a guarantee given by BI in a press release of 16 February 1998, in which it stated that as long as it would remain a shareholder of Indover it would ensure that Indover would continue to meet its obligations. This undertaking was subsequently reiterated and confirmed several times by BI. As stated in earlier reports, on 27 August 2014 the Amsterdam District Court delivered its final judgment and dismissed the Trustees' counterclaim.

The Trustees lodged an appeal against the judgment of the District Court. The Amsterdam Court of Appeal gave its ruling on the appeal on 14 November 2017. Concurring with the District Court's judgment, it dismissed the Trustees' claim.

The findings of the Court of Appeal are, in the essence, that it does not find it plausible that BI was willing to take on a guarantee obligation on the basis of an announcement in a press release. The Trustees believe that this undertaking (later repeated a number of times) is clear. Certainly if all the relevant facts are considered, in particular the events leading to the press release, the only conclusion that can be reasonably reached is that when Indover found itself in acute financial problems in 2008, BI was obliged to provide it with sufficient financial resources to be able to meet all its obligations. The Trustees have received a positive opinion from the creditors' committee and authorisation from the delegated judge to lodge an appeal in cassation against the Court of Appeal's ruling. The initiatory documents for these appeal proceedings were filed with the Supreme Court on 14 February 2018, commencing the proceedings as from that date. The documents set out and explain all of the Trustees' objections to the Court of Appeal's ruling. As a rule, cassation proceedings take around 18 months. Should the Supreme Court set aside the ruling of the Court of Appeal, it should be borne in mind that the Supreme Court will refer the case to a different Court of Appeal to rule on the case, with due regard for the Supreme Court's ruling.

On 22 June 2018, BI submitted a statement of defence. As usual, this statement of defence does not contain a material defence, but only a boiler-plate text entailing that the appeal must be rejected.

In the court session of 12 October 2018, BI argued its material defence based on written arguments. In that session the Trustees filed a further written explanation to the appeal filed

by the Trustees. Later, in the session of 9 November, the Trustees replied to BI's defence with a written Statement of Reply, and in the same session BI filed its Rejoinder.

The Advocate-General to the Supreme Court submitted his conclusion on 19 April 2019 that the appeal in cassation should be rejected. The response to this argument on the part of the Trustees will be delivered by means of a so-called "Borgers letter" (or defendant's reply letter). The Supreme Court will then render a judgment within a term of a few months. Assuming that the Supreme Court has then rendered a judgment in the proceedings between the Trustees and Bank Indonesia, the Trustees intend to make a proposal in the next public report on the further resolution of the bankruptcy, including in relation the question of whether and when a subsequent interim payment can be made to the creditors.

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

## **1. INITIAL OVERVIEW**

### **1.1. Management and organisation**

See the previous public liquidation reports.

### **1.2. Profit and loss**

Indover's cumulative losses over the period 6 October 2008 (the date that emergency regulations were applied to Indover) to 31 December 2017 inclusive amounts to rounded EUR 252.4 million. The cumulative loss can be attributed to the losses that were sustained in the seizure and execution of collateral security provided by Indover to the creditors, 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 realized 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 30 April 2019 a total of approximately EUR 46,832,000. The Trustees have reserved an amount of EUR 35,269,433.87 of these liquid assets in light of BI's disputed claim. As noted above, this reservation is 81% of the total disputed claim of BI of EUR 43,542,510.95.

From the remainder the Trustees are paying the costs of the further winding up of the bankrupt estate of Indover. In this regard, one should 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. The debts consist of 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**

At present no further proceedings are currently pending aside from the proceedings against BI reported in paragraphs (C) and (D) above. 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.

### **Other assets**

### 3.12. **Description**

The only asset in the estate that still has to be realized consists of a loan and the IAL holding (as regards IAL, see above at paragraph (B)). The book value of the remaining outstanding loan provided by Indover as of 30 April 2019 is EUR 125,775. The Trustees

have increased the monthly payment of this loan per July 2018, to speed up the redemption process and let the borrower know that as per July 2019, the outstanding balance must be redeemed in full.

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

IAL still receives occasional payments on a (small) portion of the settled and written-off NPLs. The ultimate proceeds that can be realized by liquidating IAL will therefore depend in part on the amounts received on these NPLs 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 30 April 2019, IAL's liquid assets amounted to approximately EUR 2.1 million (*amount based on the HKD exchange rate as of 30 April 2019*).

### 3.13. **Proceeds of sale**

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### 3.14. **Work**

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## 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. On 31 August 2015, one of the two loans was fully repaid. The other loan was extended again until 1 July 2019, after which the outstanding balance of this loan must be redeemed in full. (For the book value, see under 3.12).

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.

## 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. 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 credit and conducting the claim validation proceedings against BI (see above, paragraphs (C) and (D)).

Assuming that the Supreme Court has then rendered a judgment in the proceedings between the Trustees and Bank Indonesia, the Trustees intend to make a proposal in the next public report in relation to the further resolution of the bankruptcy, including on the question of whether and when a subsequent interim payment can be made to the creditors.

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

### 9.3. Submission of the next report

The Trustees will endeavour to issue the following public liquidation report concerning the position of the bankrupt estate within three months. The following public liquidation report can be expected in August 2019. 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.

Amsterdam, 8 May 2019

*mr.* A. van Hees  
Trustee in bankruptcy

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