

# **INTERIM INSOLVENCY REPORT and report pursuant to Section 137 of the Insolvency Act**

Insolvency Report No. 6 by the administrators of

**DSB Bank N.V.**

8 December 2010

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*The public insolvency reports of DSB Bank N.V. ('DSB Bank') are published online on the websites [www.dsbbank.nl](http://www.dsbbank.nl) and [www.houthoff.com](http://www.houthoff.com). The administrators of DSB Bank ('Administrators') will also be using these websites to publish other information concerning the case and the progress of the insolvency proceedings in the future.*

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This report presents the position regarding DSB Bank's assets and liabilities required to be put before the first meeting of creditors as referred to in Section 137 of the Insolvency Act. For a comprehensive analysis, the Administrators refer to the fifth public report of DSB Bank that was published on 29 October 2010. For a statement of assets and liabilities as at 30 September 2010, the Administrators refer to Annex 1 to said fifth public report.

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**0. Prospects for creditors:**

The Administrators do not envisage any possibility of a payout on the subordinated claims. The amount of any payout on the unsecured claims will depend on the proceeds from the disposal of the assets, the amount of the liabilities and the time and the costs involved in winding-up operation.

To provide an insight into the financial state of affairs, the report covers the first 12 months of the insolvency proceedings. The Administrators published a statement of assets and liabilities as at 19 October 2009 (date of collapse) and as at 30 September 2010. In the intervening period of almost one year, interest income on the loan portfolio and on other receivables amounted to approximately €220 million. Interest paid amounted to €41 million and other expenses paid another €41 million. The balance of income and expenditure amounted to €138 million. Additionally, repayments were received on loans and securitisation programme notes totalling €361 million. Finally, proceeds from the disposal of other assets totalled €136 million. The net cash flow was therefore €635 million, which has been used primarily to repay loans from the European Central Bank ('**ECB**') and the Nederlandsche Bank ('**DNB**').

It should be noted that the fact that a positive cash flow was generated in the first year does not mean that the insolvent entity of DSB Bank made a profit. If the increase in the provisions plus the interest on DSB Bank's receivables, which, although accrued during the period of insolvency, does not have to be paid, is taken into account, there was in fact a loss.

In the second year of the insolvency there will also be a considerable cash flow. The cash flows from the loans and the notes will, however, be smaller than in the first year, unless parts of the loan portfolio are sold. Part of the special short-term loan facility will be repaid. The possible payout of €230 million is envisaged in the second quarter of 2011. What percentage it will then be possible to pay out will depend on the amount of the allowed and rejected claims on DSB Bank. This initial payout rate will be no more than a few per cent. The Administrators are unable at this stage to make any prediction concerning the amount of the final settlement percentage.

Larger payments may be possible after disposal of all or part of the loan portfolio.

Details of company	: <b>DSB Bank N.V.</b>
Insolvency case number	: F 09 / 798
Decision dates	: Emergency ruling: 12 October 2009 Declaration of insolvency: 19 October 2009
Administrators	: R.J. Schimmelpenninck and B.F.M. Knüppe
Supervisory judge	: M.L.D. Akkaya (District Court at Alkmaar, Amsterdam branch)
Reporting period	: 30 October 2010 to 8 December 2010

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## **1. Introductory remarks**

This is the sixth public insolvency report by the Administrators, which also presents the position regarding DSB Bank's assets and liabilities as referred to in Section 137 of the Insolvency Act.. It covers the period from 30 October 2010 to date (8 December 2010). It should be read in conjunction with the previously published reports. All the reports can be found on the websites [www.dsbbank.nl](http://www.dsbbank.nl) and [www.houthoff.com](http://www.houthoff.com).

The insolvency of DSB Bank is legally complex. In this report, the Administrators give a simplified account of the current state of affairs in accordance with the generally accepted standards for insolvency reporting in the Netherlands. The Administrators emphasise that the information in this report is subject to closer examination. It may prove necessary to amend the information given at a later stage. It is accordingly not possible to make any statement yet concerning the completeness and accuracy of the information contained in this report.

No rights may be derived from this insolvency report and/or any subsequent reports. Nothing in this report should be interpreted as acknowledging liability or waiving any rights.

An English translation of this sixth report will be made available (but will not have any official status). Reliance can only be placed on the Dutch text.

In conducting their activities, the Administrators make use of the advisory and other services of Houthoff Buruma Coöperatief U.A. ('**Houthoff Buruma**'), PricewaterhouseCoopers Advisory N.V. ('**PwC**') and Kempen & Co N.V. ('**Kempen & Co**') and various other law firms and advisers.

## **2. Important events during the preceding reporting period**

- 2.1. On 3 December 2010, the District Court at Amsterdam, threw out a petition from the Association of Customers of Financial Institutions (Dutch Acronym '**VCFI**') for the dismissal of the Administrators. The Court's ruling has been published on the website [www.rechtspraak.nl](http://www.rechtspraak.nl).
- 2.2. During the period under review, the Administrators were in dialogue with the Executive Committee of Vereniging DSBspaarder.nl (DSB Bank Online Savers' Association) – see the website [www.dsbspaarder.nl](http://www.dsbspaarder.nl) for the link to the Association's website. This Association represents the interests of account holders who still have claims on DSB Bank after receiving payments under the Deposit Guarantee Scheme ('**DGS**').
- 2.3. The claims of DSB Bank customers with savings accounts, current accounts or deposit accounts ('**Account Holders**') whose claim by virtue of the amount of the credit balance is not subordinated and after the movements set forth in section 0.1 of the fifth public report is less than €100 per creditor will be paid in full by the Administrators for reasons of efficiency. Account Holders agreeing with the amount of the balance stated in the letter sent to them by the Administrators should not submit a separate liquidation claim. The amount concerned will be paid to them *automatically* – if possible before the end of the year – by crediting their corresponding account with DSB Bank. However, if Account Holders do not agree with the amount of the claim, they should make this known to the Administrators by using a special form, which can be downloaded from the website <http://verificatievergadering.dsbbank.nl>.
- 2.4. The amount currently drawn down under the special short-term loan facility stands at €387 million.
- 2.5. On 18 November 2010, informal noteholders' meetings were held at which the Administrators gave a presentation covering the progress in the insolvency of DSB Bank. Approximately 80% of the holders of notes in the five Special-Purpose Vehicles ('**SPVs**') were represented. On 17 January 2011, the formal noteholders' meetings will be held. The matters addressed at these meetings will include the way in which the Administrators would like to settle the duty-of-care complaints.

### 3. Creditors / meeting of creditors

#### 3.1. Creditors' meeting

The supervisory judge in the liquidation of DSB Bank has ruled that the first meeting of creditors in the liquidation of DSB Bank shall be held on Friday, 10 December 2010, commencing at 10 a.m. in the RAI Centre in Amsterdam, address:

Amsterdam RAI  
Europaplein 22  
Entree E  
1078 GZ Amsterdam  
Netherlands

Pursuant to the provisions of Section 114 of the Insolvency Act, the Administrators will deposit the lists of provisionally allowed claims and provisionally rejected claims with the court registry of the District Court in Amsterdam free of charge seven days prior to the creditors' meeting. For privacy reasons, the Administrators will not include Account Holders' names and addresses in these lists but only their account numbers. A summary of the lists has also been posted on the website [verificatievergadering.dsbbank.nl](http://verificatievergadering.dsbbank.nl). Registered creditors will be able to consult the full lists online by using their personal login codes.

The supervisory judge has since advised the Administrators that, as provided by Section 178 of the Insolvency Act ('FW'), he intends to call creditors' meetings if that is desirable in view of the need at a later stage to proceed to allow the claims of existing and former customers with complaints and holders of deposits (see section 9.1 and Annex 4 of the fifth public report). The Administrators also draw attention to the fact that creditors submitting late claims can seek to have their claims allowed by filing an objection to a distribution list pursuant to the provisions of Section 186 of the FW.

In a letter dated 1 December 2010 (**Annex 1** to this public report), the supervisory judge has since advised the Administrators that such creditors' meetings, as provided by Section 178 of the FW, will also be held if the settlement of claims from the SPVs and from certain insurers makes that desirable.

#### 3.2. Lists of creditors

Appended as **Annex 2** to this public report are the complete lists of creditors deposited with the registry of the Amsterdam District Court. Of the 8,340

registered claims, 221 claims, from 115 creditors, have been provisionally rejected. It is, however, possible that agreement might yet be reached with regard to a number of these provisionally rejected claims before the end of this week.

3.3. Account holders and DNB

From **Annex 2** to this public report, it can be seen that under List A (of the provisionally allowed unsecured claims from account holders), there are 6,947 account holders who, despite Deposit Guarantee Scheme payments, still have unsettled claims against DSB Bank totalling approximately €100 million. This category also includes the claim from DNB relating to the amounts paid out by the central bank under the DGS, totalling in excess of €3.5 billion.

3.4. Creditors with pledges

For the sake of completeness, the Administrators mention that a number of creditors whose claims are covered by a pledge given by DSB Bank debtors have elected not to submit a claim because they believe they will be able to recover the entire amount of their claim by exercising their rights as if there was no insolvency (see Section 57, subsection 1, of the FW). This includes the claims from DSB Leven N.V., DSB Schade N.V. and Société Générale S.A. (Amsterdam branch). If it is subsequently found that the amounts owed to these holders of pledges are not fully recoverable in this way, the pledgees may still make submissions for their claims to be allowed at a later stage.

3.5. Late claims

As indicated by the letters from the supervisory judge to the Administrators dated 26 October 2010 (Annex 4 to the fifth public report) and 1 December 2010 (**Annex 1** to this public report), allowance must be made for the fact that further claims may be submitted at a later stage from the following groups of creditors among others:

- Claims concerning duty-of-care complaints, in connection with a possible agreement with the Stakeholder Organisations and otherwise, which cannot be settled by setting them against amounts owed to DSB Bank by the customers concerned;
- Claims from subordinated deposit holders where it becomes clear at a later stage either as a result of court rulings or otherwise that they should be treated as unsecured claims (which is the view taken by the DSB Depositors Association / Vereniging DSBdeposito's) or that they should be treated as subordinated claims (which is the view taken by the Administrators). It should be mentioned, incidentally, that two members of the above Association, following the filing of the lists, decided to submit their claims to the Administrators as unsecured claims in order to serve as

test cases. As provided by Section 127 of the FW, these claims will be dealt with at the first meeting of creditors;

- Claims from the SPVs made against DSB Bank as originator of the securitisation programmes, specifically if it should be found that DSB Bank was in default to some extent if not entirely with regard to its guarantees concerning the quality of the securitised receivables, whether as a result of duty-of-care claims from the debtors concerned or otherwise<sup>1</sup>;
- Claims from insurers (including DSB Leven N.V. and DSB Schade N.V. in addition to third-party insurers) relating to return commission, i.e. commission repayable by DSB Bank because of the fact that policyholders for whom DSB Bank was instrumental in arranging the insurance and received commission accordingly cancelled their policies prematurely; and
- Other claims not dealt with during the creditors' meeting held on 10 December 2010 for whatever reason, such as claims from pledgees whose pledges are found not to cover the full amount of their claim.

#### **4. Assets**

##### **4.1. General**

For a general statement of the assets of DSB Bank at the time of the declaration of insolvency, see Annex 2 to the first public report. For the latest position, see Annex 1 to the fifth public report.

#### **5. Miscellaneous**

##### **5.1. Filing of the next report**

This is an interim public report published in connection with the first meeting of creditors. The Administrators will continue to publish regular public reports at the end of each quarter. The next periodical public report is expected to be filed at the end of January 2011.

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<sup>1</sup> Chapel 2003-I BV has submitted a claim of approximately € 1.829.966, -. This is the amount of damages claimed by Chapel 2003-I BV until the end of October 2010 under the warranty on the basis of currently realized and administratively processed "settlements/restructurings". The Administrators have placed this claim on the list of provisionally approved claims.

Wognum, 8 December 2010

R.J. Schimmelpenninck  
Administrator

B.F.M. Knüppe  
Administrator

**Annexes:**

- Annex 1:** Letter from the supervisory judge to the Administrators dated 1 December 2010 advising the Administrators that creditors' meetings as provided by Section 178 of the FW will also be held if the settlement of claims from the SPVs and from certain insurers makes that desirable.
- Annex 2:** The complete lists of creditors deposited with the registry of the District Court at Amsterdam.