

Private & Confidential

30 May 2014

Our Ref 2400(25)

Please ask for: Andrew Johnston
Direct Dial: 0141 249 5236

Email: andrew.johnston@bdo.co.uk

Dear Sir(s)

**RFC 2012 P.L.C. (formerly The Rangers Football Club P.L.C., “the Company”) - In Liquidation
Company Number: SC004276**

1. Introduction

We refer to our appointment as Joint Liquidators of the Company on 31 October 2012. This report should be read in conjunction with our previous update dated 15 November 2013.

This report is being sent to all known creditors and addresses the following aspects of the liquidation process:

- In accordance with Rule 4.10(1) of the Insolvency (Scotland) Rules 1986, an update to creditors regarding progress in the liquidation to date; and
- Notification of the Joint Liquidators’ remuneration and outlays as approved by the Liquidation Committee (“the Committee”).

As previously advised, this is a complex liquidation containing a number of key areas of investigation, each of which may have a significant impact on the ultimate outcome for creditors. However, due to the highly sensitive nature of certain aspects of these investigations, we consider that it is not appropriate to provide full details in respect of our investigations to date in this circular. In particular, we are not in a position to comment in detail upon the following matters:

- The litigation commenced by the former Joint Administrators against Collyer Bristow (“the CB litigation”, which has been mentioned briefly in the Administrators’ previous reports to creditors);
- The events leading up to the administration and the conduct of the former Joint Administrators;
- The conduct of the Company’s directors prior to the administration; and
- The appeal by HMRC in respect of the Employee Benefit Trust (“EBT”) decision.

As creditors may recall, the Committee was formed at the first statutory meeting of creditors held on 4 December 2012. The five members of the Committee represent the interests of the general body of creditors, and each has signed a confidentiality undertaking given the sensitive



nature of the information to which they have access. Since its formation, five formal Committee meetings have been held in which the Joint Liquidators' investigations and the liquidation strategy have been discussed in detail. The Joint Liquidators will continue to liaise closely with the Committee as their investigations progress.

2. Receipts and Payments

We attach a summary of our receipts and payments for the six month period to 30 April 2014. We are unable to provide statement of affairs comparatives as, despite repeated requests, no statement of affairs has been submitted by the directors. We have included as comparatives the estimated assets and liabilities as provided by the former Joint Administrators.

The receipts and payments are in the main self explanatory but we would like to comment on the following items:

Administration Surplus

A gross surplus of £2.356m has now been received from the former Joint Administrators by way of a combination of cash and VAT refunds. The former Joint Administrators have yet to prepare a final accounting, however, we do not believe that there are any further funds to be passed to the liquidation estate.

Book Debts

Since our last report, a further £83k has been received in respect of book debts, principally the final payment of £75k in relation to the transfer of Charlie Adam. Further anticipated recoveries from this source are detailed later in this report.

Insurance Reclaim

A recovery of £90k was secured in respect of an insurance claim arising prior to the appointment of the former Joint Administrators.

Joint Liquidators' Remuneration and Outlays - Approved & Drawn

As noted in our last report dated 15 November 2013, the Committee had approved the Joint Liquidators' further remuneration and outlays as follows:

- For the period 1 April 2013 to 26 July 2013, remuneration of £456,139.30 and outlays of £7,168.28 (all net of VAT).

Following the expiry of the 14 day appeal period these fees and outlays were subsequently drawn from funds held in the liquidation estate. The remuneration drawn in the liquidation to date now totals £1,081,193.30, together with outlays of £22,244.03 (all net of VAT).

Legal fees - Liquidation

To date, the following legal fees and outlays (all net of VAT), which have been approved by the Committee, have been paid as an expense of the liquidation:

Firm	Fees	Outlays
Brodies	£356,468.26	£4,629.34
Stephenson Harwood	£434,045.37	£217,057.59
Clyde & Co	£49,500.00	-
Taylor Wessing	-	£6,698.00
Michelmores LLP	£10,000.00	-

The outlays of £228k relate primarily to Counsels' fees in respect of the CB litigation.

3. Future Recoveries

The Joint Liquidators are continuing to progress recoveries in respect of the following:

Book Debts

A further £975k is expected shortly after 31 May 2014 in respect of the final instalment in respect of the transfer of Nikica Jelavic ("Jelavic") to Everton FC.

Jelavic was subsequently sold by Everton FC to Hull City AFC in January 2014.

As previously reported, following our appointment we were made aware that the purchaser of the business and assets of the Company had asserted claims over a number of the outstanding book debts and other sums accruing in respect of player transfers. The purchaser considered that it had acquired the debts under the terms of the sale and purchase agreement entered into by the former Joint Administrators.

After taking legal advice, an agreement was ultimately reached whereby all crystallised debts were retained by the liquidation estate and any new sums arising from the contingent element of player transfers would be split equally between the purchaser and the Company.

Based on this agreement, the following sums will accrue to the liquidation estate in respect of the subsequent sale of Jelavic to Hull City AFC:

- A total of £37,500 payable in 5 instalments up to January 2016;
- £75,000 payable on 31 May 2014; and
- A further £75,000 will become payable on 31 May 2015 if Hull City AFC retains English Premier League status at the end of the 2014/15 season and Jelavic remains registered as a Hull City AFC player.

Other than the amounts mentioned above, no further recoveries are anticipated from this source.

Litigation

Creditors will recall, from the reports of the former Joint Administrators, that the Company acting by the former Joint Administrators had issued legal proceedings in respect of the following matters:

- i. A claim for the return of monies held by the Company's former lawyers, Collyer Bristow ("CB", "the Fund Proceedings"); and

- ii. A separate claim against CB (“the Part 7 Claim”).

The monies held in relation to the Funds Proceedings are subject to competing claims by a number of other parties in addition to the Company, with the result that the total quantum of claims significantly exceed the value of the Fund. Whilst this litigation continues, we can advise that there are on-going settlement discussions between the parties which may produce a consensual solution to the claims to the Fund.

In relation to the Part 7 Claim, a significant amount of the Joint Liquidators’ time since their appointment has been spent in taking control of and appropriately progressing this litigation. A trial in this matter is currently set for the beginning of 2015.

Creditors will appreciate that, as these are very sensitive matters which are subject to legal privilege, the Joint Liquidators are unable to provide any further detail in this report. We can confirm, however, that we are working very closely with the Committee in relation to the legal strategy and progression of these claims.

4. The Former Joint Administrators

As part of our investigations, we are continuing to review the actions and the administration strategy adopted by the former Joint Administrators, and are in on-going correspondence with them in this regard.

We are working closely with the Committee in respect of these investigations and to determine what further action, if any, will be required.

5. EBT

As previously reported, HMRC had appealed the First Tier Tax tribunal decision in respect of the EBT scheme previously operated by the Company, commonly known as the “Big Tax” case. This appeal was referred to the Upper Tribunal.

As creditors will be aware, if HMRC are successful in the appeal their potential claim in the Liquidation could be significant and have a material impact upon any dividend that may ultimately be payable to unsecured creditors.

Accordingly, and at no cost to the liquidation estate, the Joint Liquidators arranged for the Company’s continued representation during the appeal proceedings. A substantive hearing commenced on 24 February 2014 and concluded on 3 March 2014. Following completion of the hearing, the parties received permission to make further submissions to the Upper Tribunal, as a recent decision in the Court of Appeal in England could be deemed to be relevant to the matters being considered by the Upper Tribunal.

Accordingly, all parties were allowed until 9 May 2014 to make further observations to the Upper Tribunal. These have now been submitted and the parties await the Tribunal’s decision. Creditors should be aware this decision may not be conclusive and a number of options could transpire, including further appeals or the referral of the matter back to the First Tier Tribunal.

6. Prescribed Part

Under the provisions of Section 176A of the Insolvency Act 1986, the Liquidators must state the amount of funds available to unsecured creditors in respect of the prescribed part. This

provision only applies where a company has granted a floating charge to a creditor after 15 September 2003. As the Company has not granted a floating charge which post dates 15 September 2003, the prescribed part will not apply in this particular liquidation.

7. Dividend Prospects

The dividend prospects remain highly contingent upon the outcome of certain key areas of the Joint Liquidators' investigations, including the CB litigation. At this stage, it is not appropriate to estimate the level of dividend that may ultimately be available to unsecured creditors.

8. Liquidators' Remuneration and Outlays

In addition to the fees drawn from the liquidation estate to date, as noted above, the Committee has also approved the further remuneration and outlays of the Joint Liquidators:

- For the period 14 April 2012 to 30 October 2012, remuneration of £179,733.63 (excluding VAT) and outlays of £12,011.02 (excluding VAT). These costs relate to the period prior to the appointment of the Joint Liquidators, when they were required to perform a substantial level of work in preparation for the handover from the Joint Administrators. Following their appointment, the Joint Liquidators obtained directions from the Court confirming that these fees and outlays could be drawn from the liquidation estate, and the quantum of the fees and outlays were subsequently agreed by the Committee.
- For the period 27 July 2013 to 3 November 2013, remuneration of £225,558.83 (excluding VAT) and outlays of £2,333.87 (excluding VAT).
- For the period 4 November 2013 to 21 February 2014, remuneration of £298,170.90 (excluding VAT) and outlays of £4,943.96 (excluding VAT).

The basis of remuneration in this case is on a time cost basis. We enclose a SIP9 summary of our time costs submitted for these periods.

The creditors' rights of appeal against the above determination are set out in Rule 4.35 of the Insolvency (Scotland) Rules 1986 and Section 53 of the Bankruptcy (Scotland) Act 1985 (as amended), as applied to Liquidations by Rule 4.68. Any such appeal must be intimated within 14 days of the date of this circular to the Sheriff at the Court of Session. However, your appeal may be rejected if you can not satisfy the Sheriff that you will gain financially from the outcome of the appeal.

Should you intend lodging an appeal we would be obliged for notification. On expiry of 14 days from this circular, should there be no appeal we will proceed to draw the approved remuneration and outlays.

9. Conclusions

We have attended to all statutory requirements throughout the course of the liquidation to date.

Due to the significant issues to be resolved in the liquidation, the Joint Liquidators do not expect to be in a position to bring this case to a conclusion for some considerable time. Further reports will be circulated to creditors within six weeks of each six month anniversary of the date of liquidation.

Should you have any queries in respect of this report, please contact our staff on the number above.

Yours faithfully
For and on behalf of
RFC 2012 P.L.C. (formerly The Rangers Football Club P.L.C.)



James B Stephen
Joint Liquidator



Malcolm Cohen
Joint Liquidator

James Bernard Stephen and Malcolm Cohen are authorised to act as insolvency practitioners by the Institute of Chartered Accountants of England & Wales. Office holder numbers 9273 and 6825.

Appendix 1 - Liquidators' Receipts & Payments

**RFC 2012 P.L.C. formerly The Rangers Football Club P.L.C.
(In Liquidation)
Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs	From 31/10/2013 To 30/04/2014	From 31/10/2012 To 30/04/2014
ASSET REALISATIONS		
	NIL	135,000.00
1,871,000.00	NIL	2,355,961.58
Uncertain	82,621.03	1,451,082.30
Uncertain	NIL	NIL
Uncertain	NIL	NIL
	90,000.00	90,742.38
Uncertain	NIL	NIL
	1,803.43	9,438.21
	263.55	263.55
	174,688.01	4,042,488.02
COST OF REALISATIONS		
	NIL	555.00
	456,139.30	1,081,193.30
	7,168.28	22,244.03
	1,601.16	13,999.79
	9,577.00	9,577.00
	78,500.00	84,200.00
	NIL	47,885.00
	NIL	157,657.61
	325,921.99	850,013.63
	57,679.76	228,384.93
	NIL	199.60
	NIL	130,000.00
	NIL	170,000.00
	NIL	3,629.68
	1,160.00	3,546.66
	379.02	379.02
	850.00	2,733.00
	NIL	439.68
	33.00	176.00
	(939,009.51)	(2,806,813.93)
PREFERENTIAL CREDITORS		
(1,000.00)	NIL	NIL
(7,000.00)	NIL	NIL
	NIL	NIL
UNSECURED CREDITORS		
(7,033,666.84)	NIL	NIL
(7,736,000.00)	NIL	NIL
Uncertain	NIL	NIL
(20,030,000.00)	NIL	NIL
(27,211,671.63)	NIL	NIL
(3,344,432.04)	NIL	NIL
(94,426,217.22)	NIL	NIL
	NIL	NIL
DISTRIBUTIONS		
(10,879,400.00)	NIL	NIL
	NIL	NIL

**RFC 2012 P.L.C. formerly The Rangers Football Club P.L.C.
(In Liquidation)
Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs	From 31/10/2013 To 30/04/2014	From 31/10/2012 To 30/04/2014
<u>(168,798,387.73)</u>	<u>(764,321.50)</u>	<u>1,235,674.09</u>
REPRESENTED BY		
Vat Input		90,770.62
The Royal Bank of Scotland		343,145.83
The Royal Bank of Scotland		48,073.13
The Royal Bank of Scotland		12,008.38
Escrow - Third Party Funds		141,676.13
Santander Time Deposit - 3 Months		600,000.00
		<u>1,235,674.09</u>



James Bernard Stephen
Joint Liquidator

- The Company is VAT registered. Receipts and payments are shown net of VAT.

Appendix 2 - SIP 9 Summary of Liquidators' Time Costs

RFC 2012 PLC (FORMERLY THE RANGERS FOOTBALL CLUB PLC) - IN LIQUIDATION
 Summary of Time Charged and Rates Applicable for the Period 14 April 2012 to 30 October 2012

DESCRIPTION	PARTNER		MANAGER - DIRECTOR		ASSISTANT MANAGER		SENIOR EXECUTIVE		EXECUTIVE		OTHER STAFF		GRAND TOTAL		AVERAGE RATE £
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	
A. Forensics & Data Processing	-	-	49.00	17,998.50	21.50	5,676.50	1.00	206.00	8.50	1,287.33	-	-	80.00	25,168.33	314.60
B. Liaison with Duff & Phelps	19.00	12,502.00	21.00	9,555.00	-	-	-	-	-	-	-	-	40.00	22,057.00	551.43
C. Liaison with HM Revenue & Customs	30.00	19,740.00	23.80	10,818.80	-	-	-	-	-	-	-	-	53.80	30,558.80	568.01
D. Liaison with Solicitors	41.00	26,978.00	50.00	21,853.00	-	-	14.00	2,758.00	-	-	-	-	105.00	51,589.00	491.32
E. Review of documents	14.00	6,082.00	18.50	8,077.50	-	-	22.25	4,383.25	-	-	-	-	54.75	18,542.75	338.68
F. Public Relations	13.50	7,318.00	7.00	3,185.00	-	-	3.00	591.00	-	-	-	-	23.50	11,094.00	472.09
G. General Planning & Administration Strategy	25.00	8,938.00	17.75	7,940.25	-	-	9.50	1,871.50	-	-	-	-	52.25	18,749.75	358.85
H. Liaison with Insolvency Service	3.00	1,974.00	-	-	-	-	-	-	-	-	-	-	3.00	1,974.00	658.00
	145.50	83,532.00	187.05	79,428.05	21.50	5,676.50	49.75	9,809.75	8.50	1,287.33	-	-	412.30	179,733.63	435.93
													Disbursements	12,011.12	
													TOTAL	191,744.75	

RFC 2012 PLC (FORMERLY THE RANGERS FOOTBALL CLUB PLC) - IN LIQUIDATION
 Summary of Time Charged and Rates Applicable for the Period 27 July 2013 to 3 November 2013

DESCRIPTION	PARTNER		MANAGER - DIRECTOR		ASSISTANT MANAGER		SENIOR EXECUTIVE		EXECUTIVE		OTHER STAFF		GRAND TOTAL		AVERAGE RATE £
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	
A. Steps On Appointment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
B. Planning & Strategy	9.25	5,569.00	2.50	1,137.50	-	-	-	-	-	-	-	-	11.75	6,706.50	570.77
C. Dealing with Solicitors & Legal Claims	37.00	21,126.00	40.00	18,200.00	-	-	11.50	2,817.50	-	-	-	-	88.50	42,143.50	476.20
D. Forensic IT and Accounting	-	-	103.85	44,109.45	42.48	14,443.20	32.15	10,931.00	8.22	1,635.78	-	-	186.70	71,319.43	382.00
E. General Administration, Investigations & Other Matters	69.25	30,789.00	26.25	10,978.00	9.00	2,358.00	19.25	4,716.25	25.25	3,669.75	3.30	437.40	152.30	52,948.40	347.66
F. Assets Realisation/Dealing	6.00	2,548.00	0.50	126.00	2.10	550.20	-	-	7.00	1,008.00	-	-	15.60	4,252.20	272.58
G. Employee Matters	-	-	1.50	378.00	-	-	-	-	-	-	-	-	1.50	378.00	252.00
H. Creditor Claims	5.00	3,290.00	9.00	2,744.00	2.40	628.80	-	-	-	-	3.75	221.25	20.15	6,884.05	341.64
I. Reporting	36.00	18,398.00	26.25	11,808.00	-	-	41.00	10,045.00	4.25	675.75	-	-	107.50	40,926.75	380.71
J. Distribution & Closure	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	162.50	81,740.00	209.85	89,680.95	55.98	17,980.20	103.90	28,909.75	44.72	6,989.28	7.05	658.65	584.00	225,558.83	386.23
													Disbursements	2,333.87	
													TOTAL	227,892.70	

RFC 2012 PLC (FORMERLY THE RANGERS FOOTBALL CLUB PLC) - IN LIQUIDATION
 Summary of Time Charged and Rates Applicable for the Period 4 November 2013 to 21 February 2014

DESCRIPTION	PARTNER		MANAGER - DIRECTOR		ASSISTANT MANAGER		SENIOR EXECUTIVE		EXECUTIVE		OTHER STAFF		GRAND TOTAL		AVERAGE RATE £
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	
Planning & Strategy	6.00	3,488.00	0.50	227.50	0.70	183.40	-	-	-	-	-	-	7.20	3,898.90	541.51
Dealing with Solicitors & Legal Claims	42.25	21,993.00	81.00	36,855.00	19.50	5,109.00	-	-	-	-	-	-	142.75	63,957.00	448.04
Forensic IT and Accounting	0.30	207.30	173.03	81,759.21	117.99	49,615.74	28.25	9,762.25	1.80	253.80	-	-	321.37	141,598.30	440.61
General Administration, Investigations & Other Matters	49.50	23,716.00	17.00	7,137.00	16.00	4,192.00	-	-	20.75	3,299.25	3.00	510.00	106.25	38,854.25	365.69
Assets Realisation/Dealing	14.00	5,992.00	2.00	856.00	-	-	-	-	-	-	-	-	16.00	6,848.00	428.00
Creditor Claims	5.00	2,140.00	3.00	959.00	0.40	104.80	1.00	170.00	13.75	2,186.25	-	-	23.15	5,560.05	240.17
Reporting	42.00	20,506.00	29.50	11,595.50	17.70	4,637.40	-	-	4.50	715.50	-	-	93.70	37,454.40	399.73
	159.05	78,042.30	306.03	139,389.21	172.29	63,842.34	29.25	9,932.25	40.80	6,454.80	3.00	510.00	710.42	298,170.90	419.71

BDO LLP REMUNERATION AND DISBURSEMENTS POLICY

In accordance with best practice I provide below details of policies of BDO LLP in respect of fees and expenses for work in relation to the liquidation.

The current charge out rates per hour of staff within my firm who may be involved in working on the liquidation follows. This in no way implies that staff at all such grades will work on the case.

	London Charge-out Rates	Scottish Charge-out Rates
STAFF GRADE	£	£
Partner	658	428
Principal	508	330
Director	455	296
Senior Manager	387 - 421	252 - 274
Manager	290 - 328	189 - 213
Assistant Manager	262	170
Cashier/Senior Cashier	196 - 290	128-189
Senior Administrator	197 - 262	128-170
Other Staff	91 - 245	59-159

The rates charged by BDO LLP are reviewed each year and are adjusted to take account of inflation and the firm's overheads.

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Units of time can be as small as 3 minutes. BDO LLP records work in respect of insolvency work under the following categories:

- Pre Appointment
- Steps upon Appointment
- Planning and Strategy
- General Administration
- Asset Realisation/Management
- Trading Related Matters
- Employee Matters
- Creditor Claims
- Reporting
- Distribution and Closure
- Other Issues

Under each of the above categories the work is recorded in greater detail in sub categories. Please note that the 11 categories provide greater detail than the 6 categories recommended by the Recognised Professional Bodies who are responsible for licensing and monitoring insolvency practitioners.

Where an officeholder's remuneration is approved on a time cost basis, the time invoiced to the case will be subject to VAT at the prevailing rate.

Where remuneration has been approved on a time costs basis, a periodic report will be provided to any committee appointed by the creditors, or in the absence of a committee, to the creditors. The report will provide a breakdown of the remuneration drawn and will enable the recipients to see the average rates of such costs.

Where expenses are incurred in respect of the insolvent estate they will be recharged. Such expenses can be divided into 2 categories.

Category 1 Disbursements

This heading covers expenses where BDO LLP has met a specific cost in respect of the insolvent estate where payment has been made to a third party. Such expenses may include items such as advertising, travel (by public transport), couriers, searches at company house, land registry searches, fees in respect of swearing legal documents, external printing costs etc. In each case the recharge will be reimbursement of a specific expense incurred.

Where applicable, disbursements will be subject to VAT at the prevailing rate.

Category 2 Disbursements

Additionally some firms recharge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of each specific case. Such expenses, which are apportioned to cases, require the approval of the creditors, before they can be drawn, and these are known as category 2 disbursements. The policy of BDO LLP, effective from 1 July 2003, is not to recharge any expense which is not a specific cost to the case, therefore there will be no category 2 disbursements charged.

A CREDITOR'S GUIDE TO LIQUIDATORS' REMUNERATION - SCOTLAND**1 Introduction**

- 1.1 When a company goes into liquidation the costs of the proceedings are paid out of its assets in priority to creditors' claims. The creditors, who hope to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's remuneration. This guide is intended to help creditors be aware of their rights to approve and monitor remuneration and disbursements, and explains the basis on which remuneration and disbursements are fixed.

2 Liquidation Procedure

- 2.1 Liquidation (or "winding up") is the most common type of corporate insolvency procedure. Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or court, when it is instituted by order of the court.
- 2.2 Voluntary and court liquidation are equally common. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to "CVL"). In this type of liquidation an insolvency practitioner acts as liquidator throughout and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.
- 2.3 In a court liquidation an insolvency practitioner may be appointed to act as provisional liquidator until the making of the winding up order. In all court liquidations, an insolvency practitioner is appointed to act as interim liquidator from the making of the winding up order until the first meeting in the liquidation, and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.
- 2.4 Where a court liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator.

3 The Liquidation Committee

- 3.1 In a liquidation (whether voluntary or court) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's remuneration and disbursements. The committee is usually established at the creditors' meeting which appoints the liquidator, but in cases where a liquidation follows immediately on from an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.
- 3.2 The liquidator must call the first meeting of the committee within 3 months of its establishment (or his appointment if that is later), and subsequent meetings must be held either at specified dates agreed by the committee, or when requested by a member of the committee, or when the liquidator decides he needs to hold one. The liquidator is required to report to the committee at least every 6 months on the progress of the liquidation. This provides the opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the liquidator's remuneration.

4 Fixing the Liquidator's Fees

- 4.1 The basis for fixing the liquidator's (which includes an interim liquidator's) remuneration is set out in Rule 4.32 of the Insolvency (Scotland) Rules 1986, and in Section 53 of the Bankruptcy (Scotland) Act 1985 which is applied to liquidations by Rule 4.68. These Rules state that the remuneration may be a commission calculated by reference to the value of the assets which are realised but there shall in any event be taken into account the work which, having regard to that value, was reasonably undertaken, and the extent of the responsibilities in administering the estate.
- 4.2 It is for the liquidation committee (if there is one) to fix the remuneration and approve disbursements. If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration is fixed by the court.
- 4.3 Rule 4.5 lays down that the remuneration of a provisional liquidator can only be fixed by the court.

5 What Information should be Provided by the Liquidator?

5.1 When seeking agreement to his remuneration and disbursements, the liquidator should provide sufficient supporting information to enable the committee or the court to form a judgement as to whether the proposed remuneration and disbursements are reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on:

- The nature of the approval being sought;
- The stage during the administration of the case at which it is being sought; and
- The size and complexity of the case.

Where, at any creditors' meeting, the liquidator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case.

Where the liquidator seeks agreement to his remuneration during the course of the liquidation, he should always provide an up to date receipts and payments account. Where the proposed remuneration is based on time costs the liquidator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the liquidator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the liquidator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject.

The guidance suggests the following areas of activity as a basis for the analysis of time spent:

- Administration and planning
- Investigations
- Realisation of assets
- Trading
- Creditors
- Any other case specific matters

The following categories are suggested as a basis for analysis by grade of staff:

- Partner
- Manager
- Other senior professionals
- Assistants and support staff

The explanation of what has been done can be expected to include an outline of the nature of the assignment and the liquidator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain:

- Any significant aspects of the case, particularly those that affect the amount of time spent.
- The reasons for subsequent changes in strategy.
- Any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make.
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, or the drawing or agreement of remuneration.
- Any existing agreement about remuneration.
- Details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees.

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases.

- 5.2 The liquidator should always make available an up to date receipts and payments account. Where the remuneration is to be charged on a time basis the liquidator should be prepared to disclose the amount of time spent on the case and the charge-out value of the time spent, together with such additional information as may reasonably be required having regard to the size and complexity of the case. Where the remuneration is charged on a percentage basis, the liquidator should provide details of any work which has been or is intended to be contracted out which would normally be undertaken directly by a liquidator or his staff.
- 5.3 A liquidator's disbursements are subject to approval by virtue of Rule 4.32. Where a liquidator makes, or proposes to make, a separate charge by way of disbursements to recover the cost of facilities provided by his own firm (such as room hire, document storage or communication facilities), (category 2 disbursements) he should disclose those charges to the committee or the creditors when seeking approval of his remuneration and disbursements together with an explanation of how those charges are made up. Disbursements must either be directly incurred on the case or be subject to a reasonable method of calculation and allocation and the basis on which they are allocated must be disclosed. Such disbursements must be directly incurred on the case and subject to a reasonable method of calculation and allocation. A charge for disbursements calculated as a percentage of the amount charged for remuneration is not allowed.
- 5.4 Payments to outside parties in which the office holder or his firm or any associate has an interest should be disclosed to the body approving remuneration and should be treated in the same way as payments to himself. They therefore require specific approval as remuneration prior to being paid.
- 5.5 In Rule 4.12 of the Insolvency (Scotland) Rules 1986, a resolution may be passed fixing the basis of remuneration at the first meeting of creditors in a court liquidation. The liquidator should immediately notify the creditors of the details of the resolution, and when subsequently reporting to creditors on the progress of the liquidation, or submitting his final report, he should specify the amount of remuneration he has drawn in accordance with the resolution. Where the remuneration is based on time costs he also should provide details of the time spent and charge-out value to date and any material changes in the rates charged since the resolution was first passed. Where the remuneration is charged on a percentage basis the liquidator should provide the details set out in paragraph 5.1 above regarding work which has been sub-contracted out.
- 5.6 Paragraph 5.3 above does not however apply to a voluntary liquidation.
- 6 What if a Creditor is Dissatisfied?**
- 6.1 If a creditor believes that the liquidator's remuneration is too high he may, under Rule 4.35, apply to the court for an order that it be reduced. If the court considers the application to be well-founded, it shall make an order fixing the remuneration at a reduced amount or rate. Unless the court orders otherwise, the expenses of the application shall be paid by the applicant, and are not payable as an expense of the liquidation.
- 6.2 **As noted in paragraph 4.3 above, the remuneration of a provisional liquidator is fixed by the Court and there is no specific provision in the Insolvency Legislation to give creditors the right of appeal against the Court's determination. Consequently if a creditor is dissatisfied, any appeal must be made to the appropriate Court in accordance with normal Court rules.**
- 7 What if the Liquidator is Dissatisfied?**
- 7.1 If the liquidator considers that the remuneration fixed by the committee is insufficient he may request that it be increased by resolution of the creditors. He may also request the court for an order increasing its amount or rate, before or after recourse to the creditors. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may, if it appears to be a proper case, order the costs to be paid out of the assets of the company.
- 8 Other Matters Relating to Remuneration**
- 8.1 Where the liquidator realises assets on behalf of a secured creditor, he will usually agree the basis of his remuneration for dealing with charged assets with the secured creditor concerned.

- 8.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.
- 8.3 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.