

5 April 2017

Please email:  
ARM.ABS.SA@bdo.co.uk

Dear Sir/Madam

**ARM Asset Backed Securities SA (“the Issuer”) - In Liquidation  
In the High Court of Justice  
No 6914 of 2013**

Mark Shaw, Malcom Cohen and I were appointed Joint Liquidators of the Issuer on 10 March 2017 by the Secretary of State.

It is not our intention to summon a meeting of creditors at this stage because there do not appear to be any matters warranting the establishment of a Liquidation Committee. Under Section 141 of the Insolvency Act 1986, we shall convene a meeting of creditors if requested to do so by one-tenth, in value, of the Issuer’s creditors. If you want the opportunity to consider whether a Liquidation Committee should be set up please write to me at the above address indicating as such.

As previously reported on our website (<https://www.bdo.co.uk/en-gb/arm-asset-backed-securities-sa>), the purpose of this liquidation is to allow the Joint Liquidators to propose a Company Voluntary Arrangement (‘CVA’) through which we can put into effect the terms of the settlement agreement and distribute the assets of the Issuer. It is our intention to propose the CVA on 5 April 2017. Details of the CVA will be sent to those creditors who have not assigned their claims to the FSCS and it will also be available on the website detailed above.

The Insolvency Service has established a central gateway for considering complaints in respect of Insolvency practitioners. In the event that you make a complaint to us but are not satisfied with the response from us then you should visit <https://www.gov.uk/complain-about-insolvency-practitioner> where you will find further information on how you may pursue the complaint.

The Joint Liquidators are bound by the Insolvency Code of Ethics when carrying out all professional work relating to this appointment. A copy of the code is at:

<http://www.icaew.com/en/members/regulations-standards-and-guidance/ethics/code-of-ethics-d>.

Creditors may access information setting out creditors’ rights in respect of the approval of Joint Liquidators’ remuneration at:

<https://www.r3.org.uk/what-we-do/publications/professional/fees>.





As described above the liquidation is a mechanism to propose a CVA and the Joint Liquidators will be acting as Nominees and Supervisors in relation to the CVA and charging their costs accordingly, further details of such will be presented in the CVA proposal.

Under the provisions of the Insolvency Rules 1986 the Joint Liquidators are obliged to fix their remuneration in accordance with Rule 4.127(2) of the Insolvency Rules 1986. This permits remuneration to be fixed either as a percentage of the value of the assets realised or distributed, or both in combination; or by reference to the time the Joint Liquidators and their staff spend in attending to matters in this liquidation; or a fixed amount; or the remuneration may be fixed as a combination of any of the foregoing bases.

In respect of this liquidation we will ask creditors to approve our remuneration on a time costs basis, and I attach a fee estimate for your reference. Approval of our fees will be sought via postal resolution once the substantive work of the liquidation has been completed.

For your guidance, we attach "A creditors' guide to liquidators' fees", together with a document that outlines the policy of BDO LLP in respect of fees and disbursements.

If you require any further information please email [ARM.ABS.SA@bdo.co.uk](mailto:ARM.ABS.SA@bdo.co.uk).

For your information my authorising body is the Insolvency Practitioners' Association. Mark Shaw and Malcolm Cohen are authorised in the UK Institute of Chartered Accountants in England & Wales.

Yours faithfully  
For and on behalf of  
ARM Asset Backed Securities SA



Sarah Rayment  
Joint Liquidator  
Authorised in the UK by the Insolvency Practitioners' Association



ARM Asset Backed Securities SA

Proposed Fees & Expenses for a Compulsory Liquidation ('WUC')

Mark Shaw, Malcolm Cohen & Sarah Rayment of BDO LLP, 55 Baker Street, London, W1U 7EU appointed Joint Liquidators on 10 March 2017

Fees Estimate for WUC			
	Total	Blended	Estimated
	Hours	Rate £	Fee
			£
Summary Activity			
A. Pre Appointment Matters	20	597.50	11,950.00
Total			11,950.00
Steps on Appointment	25	383.20	9,580.00
Planning and Strategy	40	597.50	23,900.00
General Administration	42	327.98	13,775.00
Assets Realisation/Dealing	11	347.73	3,825.00
Creditor Claims	11	347.73	3,825.00
Reporting	27	368.89	9,960.00
TOTAL			76,815.00
<b>Expenses Estimate</b>			
Officeholder CAT 1 Disbursements			Uncertain
Officeholder CAT 2 Disbursements			Uncertain
Other Expenses			
Solicitors costs			100,000.00

The table above is our estimate of the Liquidators' fees on a time costs basis for the completion of the WUC and the anticipated expenses. This estimate and the expenses are prepared on the basis of the information available to us at the date of this estimate. Assuming that there are no major unanticipated factors, we would expect that our fees may be lower than the estimate. In the following pages we provide a summary of the work we believe is necessary. Where applicable, all fees and disbursements will be subject to VAT at the prevailing rate.

In any work of this nature we may have recourse to engage specialists to assist us for example to protect the legal interests of the estate including where necessary taking action to recover sums due to the estate. The specialists we engage will invoice us and that will be an expense of the estate. Such expenses are not subject to creditor approval but nevertheless have an effect on the funds available for creditors in the estate.

### 1. Liquidators' Fees

Fees (remuneration) may be sought on four different bases and a guide for creditors is attached. The four bases are:



- a time costs basis;
- a percentage of the assets realised;
- fixed amount; or
- a combination of the first three bases.

In this insolvency case we are seeking fees on a time cost basis and have estimated a fee of £75,000.

Where possible I will delegate work to my staff and by this expedient the work is conducted by suitably qualified and experienced members of staff at different hourly costs. The current charge out rates per hour of staff within my firm's London office is below:

**GRADE £**

Partner	726-810
Manager	321-560
Assistant Manager	289
Senior Administrator	270-289
Administrator	100-244
Other Staff	100

These rates are confirmed in an attached document which sets out my firm's policy on time costs and expenses. My firm's hourly time costs rate are reviewed in December and July each year and adjusted to take account of inflation and the firm's overheads. I have estimated the time I and my staff will spend in respect of the following areas of work in respect of this insolvency. Below I provide the primary work that will be undertaken by the Joint Liquidators and their staff.

**Pre Appointment**

Pre appointment work will be comprised of the preparation work for the winding up application.

**Steps upon Appointment**

Reviewing appointment and statutory documents, preliminary organisation review, initial interviews and meetings with key stakeholders including third parties, establishing internal responsibilities regarding staffing of elements of the work. This work will primarily be led by the senior manager and me with appropriate work delegated to administrator level staff.

**Planning and Strategy**

The planning and strategy work will be comprised of the drafting of the Company Voluntary Arrangement ('CVA') proposal and planning for a meeting of creditors and members to approve the proposal. This work is led by me as the partner together with the senior manager, as appropriate, with support at meetings by administrator level staff.

**General Administration**

This will include, but not limited to, activities such as those listed below:

- Reviewing and regularising affairs regarding insurance, VAT, and taxation.
- Investigations into the affairs and transactions of the entity. The work contemplated does not at this time include forensic examination of records and transactions.
- Engaging and liaising with solicitors.
- Managing accounting of realisations, suitable banking investment and preparing reports on receipts & payments.
- Ensuring appropriate approval of all costs including approval of remuneration and matching costs of specialists against their expense estimates.
- Dealing with statutory, regulatory and licensing matters.
- Dealing with court hearings regarding the insolvency (excluding third party litigation).



- Dealing with press enquiries and PR matters.
- Managing general administrative matters, basic enquiries and meetings.

The majority of this work requires a range of insolvency knowledge and experience, balanced with good accounting and administrative skills and is delegated largely to executives with suitable levels of experience, supervised by directors or managers.

## **Assets**

It is not envisaged that a significant amount of costs will be incurred in this regard, as the assets of the company are known and on the anticipated approval of the CVA proposal will be transferred to the supervisors.

## **H Creditor Claims**

It is anticipated that creditors will be dealt with through the CVA rather than the liquidation and therefore aside from this initial information for creditors we would not propose any significant costs in this regard.

## **I Reporting**

Preparing periodic progress reports to creditors regarding the progress achieved, including preparation of receipts & payments accounts, a suitable analysis of time costs accrued and a review of actual costs and accrued costs as against this fees and expense estimate.

At the time this estimate was prepared no information was available regarding whether creditors were going to appoint a committee, if a committee is appointed there will be additional reports, which have not currently been budgeted for.

The senior manager is responsible for leading the reporting and delegating the production of the accounts, fee analysis and comparison with estimates to suitably experienced executives. The ratio of time spent on reporting is generally that executive hours are twice as many as those of the senior manager. Much of the basic accounting and analysis is conducted by various grades of executives. In estimating costs in respect of reporting we have formed a view of the duration of the insolvency and estimated how many reports will be required.

## **J Distribution and Closure**

It is anticipated that all distributions will take place in the CVA and not in this liquidation. We will be required to prepare a final report to creditors together with a receipts & payments accounts, analysis of time costs accrued and a review of actual costs compared to the fee and expense estimate. Complete all administrative arrangements including storage of any records for statutory periods. File final statutory documentation. 80% of this work is delegated to executive level staff. The work is supervised by the senior manager and final decisions and release of funds is authorised by the partner.

## **2. Expense Estimate**

### **2.1 Category 1 Disbursements**

Our estimate in respect of this heading covers expenses where the officeholders firm 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, couriers, travel (by public transport), land registry searches, fees in respect of swearing legal documents, storage of original records of the insolvent estate. In each case the recharge will be reimbursement of a specific expense incurred.



## 2.2 Category 2 Disbursements

Costs in respect of this heading will be subject to creditor approval because it concerns expenses where there will not always be an invoice for the cost. Insolvency practice additionally provides for the recharge of expenses such as postage, stationery, photocopying charges, telephone, fax and other electronic communications, which cannot be economically recorded in respect of each specific case. Such expenses, which are apportioned to cases, must be approved by the creditors in accordance with the Insolvency Rules 1986, before they can be drawn, and these are known as category 2 disbursements. The current policy of BDO LLP is to recharge this expense on the basis of a figure based upon the number of creditors with whom we have to communicate and report during the insolvency. This is the method of calculation that was historically provided under statutory orders for the Official Receiver.

A further disbursement under this heading is the cost of travel where BDO staff use either their own vehicles or company cars in travelling connected with the insolvency. In these cases a charge of 45p per mile is raised which is in line with the Inland Revenue Approved Mileage Rates (median - less than 10,000 miles per annum) which is the amount the firm pays to staff. Where costs are incurred in respect of mileage, approval will be sought in accordance with the Insolvency Rules 1986 to recover this disbursement.

## 2.3 Agents Costs

It is not anticipated that any agents will be required in this liquidation.

## 2.4 Valuers Costs

It is not anticipated that any valuers will be required in this liquidation.

## 2.5 Solicitors costs

We estimate that the legal fees that will be incurred in this liquidation will be approximately £100,000, these will predominantly relate to the winding up application and the drafting of the CVA proposal.

BDO LLP  
5 April 2017



## 1 Introduction

- 1.1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. 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 fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.

## 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 compulsory, when it is instituted by order of the court.
- 2.2 Voluntary liquidation is the more common of the two. 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 nomination of the liquidator at via the deemed consent procedure, a virtual meeting or a requisitioned physical meeting of creditors.
- 2.3 In a compulsory liquidation on the other hand, the function of liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and an official belonging to The Insolvency Service. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver, either at a meeting of creditors convened for the purpose or directly by The Insolvency Service on behalf of the Secretary of State. Where an insolvency practitioner is not appointed the official receiver remains liquidator.
- 2.4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator. An administrator may also subsequently act as liquidator in a CVL.

## 3 The liquidation committee

- 3.1 In a liquidation (whether voluntary or compulsory) 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 fees. The committee is usually established by the creditors via a Qualifying Decision Procedure (Correspondence [written resolution]; electronic voting; Virtual meeting; Physical meeting.). In cases where a liquidation follows immediately on 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 6 weeks 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, unless the committee directs otherwise. This provides an opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the liquidator's fees.

## 4 Fixing the liquidator's remuneration

- 4.1 The basis for fixing the liquidator's remuneration is set out in Rules 18.16-18.38 of the Insolvency (England and Wales) Rules 2016.
- 4.2 The Rules state that the remuneration shall be fixed:

- as a percentage of the value of the assets which are realised or distributed or both,
  - by reference to the time properly given by the liquidator and his staff in attending to matters arising in the liquidation, or
  - as a set amount.
- 4.3 Any combination of these bases may be used to fix the remuneration, and different bases may be used for different things done by the liquidator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the liquidator.
- 4.4 It is for the liquidation committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage, it is for the committee to determine the percentage or percentages to be applied. Rule 18.16 says that in arriving at its decision the committee shall have regard to the following matters:
- the complexity (or otherwise) of the case;
  - any responsibility of an exceptional kind or degree which falls on the liquidator in connection with the insolvency;
  - the effectiveness with which the liquidator appears to be carrying out, or to have carried out, his duties;
  - the value and nature of the assets which the liquidator has to deal with.
- 4.5 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed by a resolution of the creditors through a Qualifying Decision Procedure (Correspondence [written resolution]; electronic voting; Virtual meeting; Physical meeting.). The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.
- 4.6 If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules.
- 4.7 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

## 5 Review of remuneration

- 5.1 Where there has been a material and substantial change in circumstances since the basis of the liquidator's remuneration was fixed, the liquidator may request that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.

## 6 What information should be provided by the liquidator?

### 6.1 When fixing bases of remuneration

- 6.1.1 When seeking agreement for the basis or bases of remuneration, the liquidator should provide sufficient supporting information to enable the committee or the creditors to make an informed judgement as to whether the basis sought is appropriate having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. The appendix to this guide sets out a suggested format for the provision of information.
- 6.1.2 If any part of the remuneration is sought on a time costs basis, the liquidator should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.
- 6.1.3 The liquidator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.
- 6.1.4 If work has already been carried out, the liquidator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the

case. Where the proposed charge is calculated on a time costs basis, the liquidator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

## **6.2 After the bases of remuneration have been fixed**

6.2.1 The liquidator is required to send progress reports to creditors at specified intervals (see paragraph 7.1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 71, the liquidator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the liquidator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the liquidator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

## **6.3 Disbursements and other expenses**

6.3.1 Costs met by and reimbursed to the liquidator in connection with the liquidation should be appropriate and reasonable. Such costs will fall into two categories:

- Category 1 disbursements: These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the liquidator or his or her staff.
- Category 2 disbursements: These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage.

6.3.2 Category 1 disbursements can be drawn without prior approval, although the liquidator should be prepared to disclose information about them in the same way as any other expenses. Category 2 disbursements may be drawn if they have been approved in the same manner as the liquidator's remuneration. When seeking approval, the liquidator should explain, for each category of expense, the basis on which the charge is being made.

6.3.3 The following are not permissible:

- a charge calculated as a percentage of remuneration;
- an administration fee or charge additional to the liquidator's remuneration;
- recovery of basic overhead costs such as office and equipment rental, depreciation and finance charges.

## **6.4 Realisations for secured creditors**

6.4.1 Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any Qualifying Decision Procedure of creditors convened for the purpose of determining his fees, and in any reports he sends to creditors.

## **7 Progress reports and requests for further information**

7.1 The liquidator is required to send annual progress reports to creditors. The reports must include:

- details of the basis fixed for the remuneration of the liquidator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it);
- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report);

- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of
- whether payment was actually made during the period of the report;
- a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether payment was actually made during that period;
- a statement of the creditors' rights to request further information, as explained in paragraph 7.2, and their right to challenge the liquidator's remuneration and expenses.

7.2 Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a creditor may request the liquidator to provide further information about the remuneration and expenses set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.

7.3 The liquidator must provide the requested information within 14 days, unless he considers that:

- the time and cost involved in preparing the information would be excessive, or
- disclosure would be prejudicial to the conduct of the liquidation or might be expected to lead to violence against any person, or
- the liquidator is subject to an obligation of confidentiality in relation to the information requested,

in which case he must give the reasons for not providing the information.

7.4 Any creditor may apply to the court within 21 days of the liquidator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information.

## **8 Provision of information – additional requirements**

8.1 The liquidator must provide certain information about the time spent on the case, free of charge, upon request by any creditor, director or shareholder of the company. The information which must be provided is –

- the total number of hours spent on the case by the liquidator or staff assigned to the case;
- for each grade of staff, the average hourly rate at which they are charged out;
- the number of hours spent by each grade of staff in the relevant period.

8.2 The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the liquidator's appointment, or where he has vacated office, the date that he vacated office.

8.3 The information must be provided within 28 days of receipt of the request by the liquidator, and requests must be made within two years from vacation of office.

## **9 What if a creditor is dissatisfied?**

9.1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees. To enable them to carry out this function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing

9.2 If a creditor believes that the liquidator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court.

9.3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 7.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing.

9.4 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the insolvent company.

## **10 What if the liquidator is dissatisfied?**

10.1 If the liquidator considers that the remuneration fixed by the liquidation committee, or in the preceding administration, is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. 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 order the costs to be paid out of the assets.

## **11 Other matters relating to remuneration**

11.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.

11.2 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 Qualifying Decision Procedure of creditors.

11.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditors or the court.

11.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.

11.5 Where the basis of the remuneration is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.

11.6 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.

## **12 Effective date**

This guide applies where a company goes into liquidation on or after 1 November 2011.

## Appendix

Suggested format for the provision of information Professional guidance issued to insolvency practitioners sets out the following suggested format for the provision of information when seeking approval of remuneration. However, the level of disclosure suggested below may not be appropriate in all cases, and will be subject to considerations of proportionality. In larger or more complex cases the circumstances of each case may dictate the information provided and its format. Narrative overview of the case In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:

- the complexity of the case;
- any exceptional responsibility falling on the liquidator;
- the liquidator's effectiveness;
- the value and nature of the property in question.

The information provided will depend upon the basis or bases being sought or reported upon, and the stage at which it is being provided. An overview might include:

- an explanation of the nature, and the liquidator's own initial assessment, of the assignment (including the anticipated return to creditors) and the outcome (if known);
- initial views on how the assignment was to be handled, including decisions on staffing or subcontracting and the appointment of advisers;
- any significant aspects of the case, particularly those that affect the remuneration and cost expended;
- the reasons for subsequent changes in strategy;
- the steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, and fee drawing;
- 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;
- in a larger case, particularly if it involved trading, considerations about staffing and managing the assignment and how strategy was set and reviewed;
- details of work undertaken during the period;
- any additional value brought to the estate during the period, for which the liquidator wishes to claim increased remuneration.

### Time cost basis

Where any part of the remuneration is or is proposed to be calculated on a time costs basis, requests for and reports on remuneration should provide:

- An explanation of the liquidator's time charging policy, clearly stating the units of time that have been used, the grades of staff and rates that have been charged to the assignment, and the policy for recovering the cost of support staff. There is an expectation that time will be recorded in units of not greater than 6 minutes.
- A description of work carried out, which might include:
  - details of work undertaken during the period, related to the table of time spent for the period;
  - an explanation of the grades of staff used to undertake the different tasks carried out and the reasons why it was appropriate for those grades to be used;
  - any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make.
- Time spent and charge-out summaries, in an appropriate format.

It is useful to provide time spent and charge-out value information in a tabular form for each of the time periods reported upon, with work classified (and sub-divided) in a way relevant to the circumstances of the case

The following areas of activity are suggested 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 level of disclosure suggested above will not be appropriate in all cases, and considerations of proportionality will apply:

- where cumulative time costs are, and are expected to be, less than £10,000 the liquidator should, as a minimum, state the number of hours and average rate per hour and explaining unusual features of the case;
- where cumulative time costs are, or are expected to be, between £10,000 and £50,000, a time and charge-out summary similar to that shown above will usually provide the appropriate level of detail (subject to the explanation of any unusual features);
- where cumulative time costs exceed, or are expected to exceed, £50,000, further and more detailed analysis or explanation will be warranted.

