

TO ALL KNOWN CREDITORS AND MEMBERS

7 January 2020

Please ask for  
David Forster  
0151 237 4530  
Email [BRCMT@bdo.co.uk](mailto:BRCMT@bdo.co.uk)

Dear Madams/Sirs

## Oxus Gold Plc - In Administration ('the Company')

It is now approximately 4 years since my appointment in respect of the Company. In accordance with Rule 18.6 of the Insolvency (England and Wales) Rules 2016, I am now reporting the progress made in implementing the approved proposals and achieving the statutory purpose of the Administration for the period from 9 June 2019 to 8 December 2019 ('the Period'). This report should be read in conjunction with previous progress reports.

### 1 Statutory Information

The Joint Administrators are Malcolm Cohen (officeholder number: 6825) and Shane Crooks (officeholder number: 15110) both of BDO LLP, 55 Baker Street, London, W1U 7EU and they were appointed in respect of the Company on 27 January 2016.

Under the provisions of paragraph 100(2) of Schedule B1 to the Insolvency Act 1986, the Joint Administrators carry out their functions jointly and severally, meaning any action can be done by one Administrator or by both of them.

The Joint Administrators were appointed by the Directors of the Company, pursuant to Paragraph 22 of Schedule B1 to the Insolvency Act 1986. The Administration proceedings are dealt with in the High Court of Justice, Chancery Division and the court case number is 482 of 2016.

The Company's registered office is situated at 55 Baker Street, London, W1U 7EU and the registered number is 04056219.

As previously reported in the Joint Administrators' proposals dated 11 March 2016, I outlined the timeline of the events leading up to the appointment of the Joint Administrators. These proposals, along with previous reports in the Administration of Oxus Gold can be found at the following webpage:

<http://www.bdo.co.uk/services/business-restructuring/oxus-gold-plc-in-administration>

This webpage can also be navigated from the main [www.bdo.co.uk](http://www.bdo.co.uk) website by searching for "Oxus Gold". If any creditor wishes to have paper copies of the proposals or any other reports in this Administration please email [oxusgold@bdo.co.uk](mailto:oxusgold@bdo.co.uk).

### 2 Receipts & Payments

I enclose, for your information, a summary of my receipts and payments to date showing a balance in hand of £14,417, together with a copy of my summary account covering the

Period. The transactions shown are self-explanatory; the payments made in relation to legal fees & disbursements is discussed later in my report.

### 3 Costs in the Administration

I additionally provide a summary of the professional fees and other expenses which have been paid in the Period, the costs which have been accrued and not yet paid and the costs that are anticipated.

Professional Fees and Expenses	Accrued £	Paid £	Anticipated £
Proskauer Rose LLP - Legal Fees & Disbursements	11,572	11,572	Nil
Agents Fees & Disbursements	Nil	Nil	Nil
<b>Total</b>	<b>11,572</b>	<b>11,572</b>	<b>Nil</b>

#### Legal Fees & Disbursements

During the Period, legal fees and disbursements totalling £11,572 were paid to Proskauer Rose LLP ('PRLLP') in relation to work undertaken by them in assisting with legal proceedings and the extension of the Administration.

### 4 Assets

The conclusion of the arbitration and litigation matters is discussed below. There are no further assets to be realised.

I confirm that there are no other assets of a peculiar or special nature which cannot be sold. Consequently, there has been no distribution of unsold assets to creditors, as mentioned in Rules 18.10/14.13 of the Rules.

### 5 Investigations

The Joint Administrators have a duty to investigate the affairs of the Company and also the conduct of the directors and in respect of the latter, to submit a confidential statutory report to the Secretary of State. I confirm that a report has been submitted.

I have completed my review of the Company's affairs and assets to establish whether there are any actions that can be investigated for the benefit of the creditors and concluded that there are no further causes of action to be pursued.

### 6 Arbitration and Litigation

Following the dismissal by the Paris Court of Appeal of the Partial Annulment Application in its entirety earlier this year, we concluded that it would not be feasible for the Company to pursue any further appeals. No further action can now be taken in this regard.

As reported previously, Gretton, as the sole secured creditor of Oxus, has been pursuing in its own right enforcement of the existing award in the United States of America. As there

is no longer a prospect of funds becoming available to preferential or unsecured creditors or shareholders, Oxus Gold no longer has an interest in those proceedings and it will not be appropriate for the Joint Administrators to give further updates on this matter.

## 7 Future of the Administration

The Joint Administrators have continued to perform their statutory duties in the Administration.

As previously reported the Administration is due to end on 26 January 2021. Once all matters in the Administration have been concluded, which may well be before 26 January 2021, it is anticipated that the Joint Administrators will arrange to exit the Administration by dissolving the Company in accordance with the approved formal proposals.

## 8 Prospects for Creditors

### Secured Creditor

As mentioned in previous Joint Administrators' reports, Gretton is the Company's sole secured creditor. Its only remaining potential source of recovery is discussed in section 6 above.

### Preferential Creditors

Preferential claims are those of employees with arrears of wages (capped at £800 per employee) and outstanding holiday pay (uncapped).

All employees were paid up to 31 January 2016 and therefore there are no preferential claims for unpaid wages. The total amount of preferential claims is estimated at £7,455 in respect of unpaid holiday.

### Unsecured Creditors

As detailed in my previous report, the records of the Company indicate that the unsecured creditors are in the order of £9.5m, comprising:

- Trade Creditors - £1.3m
- Intercompany Loans - £8.25m

There is a disputed claim of \$10.8m, which has been made, although not formally proved in the administration, by the Uzbek Government in respect of an award made in Uzbekistan.

In relation to the award, court proceedings were commenced in the UK High Court against the Company; those proceedings are currently stayed.

Following the dismissal of the Paris appeal, there is no prospect of any funds being available to make a distribution to the unsecured creditors.

Under Section 176A of the Insolvency Act 1986, where after 15 September 2003 a company has granted to a creditor a floating charge, a proportion of the net property of that company must be made available purely for the unsecured creditors (the 'Prescribed Part').

The Company has not granted a floating charge to any creditor after 15 September 2003 and consequently there will be no Prescribed Part in this Administration.

## **9 Joint Administrators' Remuneration**

The Joint Administrators were obliged to fix their remuneration in accordance with Rule 18.16. This permits remuneration to be fixed either:

- (1) As a percentage of the assets realised and distributed; and/or
- (2) By reference to the time the Joint Administrators and the staff have spent attending to matters in the administration; and/or
- (3) As a set amount; and/or
- (4) As a combination of the above.

The Joint Administrators' remuneration has been approved on the basis of time properly spent in dealing with issues in the Administration. To date, the Joint Administrators have drawn £12,000 in respect of their pre-appointment remuneration as shown on the enclosed Receipts and Payments account.

As previously reported, the Joint Administrators have not drawn any post-appointment remuneration from the Administration estate. To date the Joint Administrators have been paid £165,396 directly by Gretton.

I attach two schedules detailing the time costs incurred to date. The first schedule covers the Period and records time costs of £13,156, which represents 47 hours, spent at an average charge out rate of £280 per hour.

The second schedule covers the whole period of appointment and records time costs of £317,638, which represents 1038 hours spent at an average charge out rate of £306 per hour.

The Joint Administrators' original Fees Estimate is also attached, annotated with a column showing the time costs accrued in respect of each activity of the work undertaken for the benefit of creditors.

For guidance, I enclose a document that outlines the policy of BDO LLP in respect of fees and disbursements.

## **10 Disbursements**

Where disbursements are recovered in respect of precise sums expended to third parties there is no necessity for these costs to be authorised. These are known as category 1 disbursements. Since my last report no category 1 disbursements have been incurred.

Some Administrators recharge expenses, for example printing, photocopying and telephone 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 in respect of this appointment is not to charge any category 2 disbursements with the exception of mileage on the basis of the mileage scale approved by HMRC, being 45p per mile unless otherwise disclosed to the creditors. No category 2 disbursements have accrued in the Period.

Total disbursements of £925 have been incurred in the Administration as detailed below:

	Cat. 1 (£)	Cat. 2 (£)	Total (£)
Bonding	200.00	-	200.00
Statutory Advertising	432.97	-	432.97
Storage	121.61	-	121.61
Staff Travel	75.00	-	75.00
Software Licence	95.02	-	95.02
<b>Total</b>	<b>924.60</b>	<b>-</b>	<b>924.60</b>

To date disbursements totalling £728 have been drawn during the Administration, none of which were drawn during the Period.

## 11 Creditor rights and enquiries

Creditors with the concurrence of at least 5% in value of the unsecured creditors may within 21 days of this report request in writing further information regarding the remuneration and expenses set out in this report. In accordance with Rule 18.9(3) of the Rules within 14 days of a request we will provide further information or explain why further information is not being provided. Creditors may access information setting out creditors' rights in respect of the approval of Administrator's remuneration at <https://www.r3.org.uk/what-we-do/publications/professional/fees>.

Creditors with the concurrence of at least 10% of the creditors may apply to the court if they consider that the remuneration of the administrators, or the basis fixed for the remuneration of the administrator or expenses charged by the administrator are excessive (Rule 18.34 of the Rules). Such an application must be made within 8 weeks of receiving this report. The text of Rules 18.9 and 18.34 are set out at the end of this report.

The Joint Administrators 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 Administrators' remuneration at <https://www.r3.org.uk/what-we-do/publications/professional/fees>.

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 me but are not satisfied with the response from me 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.

If you require any further information please contact me or my colleague David Forster at [BRCMT@bdo.co.uk](mailto:BRCMT@bdo.co.uk).

Yours faithfully  
for and on behalf of  
Oxus Gold Plc



Malcolm Cohen  
Joint Administrator  
Authorised by the Institute of Chartered Accountants in England & Wales in the UK

#### Enclosures

Receipts and Payments Account  
SIP 9 Time Cost Report for the Period  
SIP 9 Time Cost Report for the period of Administration  
Fees Estimate to Accrued Time Comparison  
BDO LLP Policy in Respect of Fees and Disbursements  
Statement of Creditors' Rights in respect of Fees and Disbursements

Oxus Gold Plc - In Administration

Summary of Joint Administrators' Receipts and Payments from 27 January 2016 to 8 December 2019

	Estimated to realise per Directors' Statement of Affairs (£)	Change Since Previous Report dated 9 June 2019 (£)	Total Realisations (£)
<b>RECEIPTS</b>			
Cash at Bank	52,081.00	-	53,340.49
Third Party Funding		11,571.68	30,986.45
Bank Interest		21.05	107.87
Bank Charge Refund		-	699.45
	<u>52,081.00</u>	<u>11,592.73</u>	<u>85,134.26</u>
<b>PAYMENTS</b>			
Professional Fees		-	213.43
Legal Fees		11,571.68	57,088.45
Pre Appointment Joint Administrators' Costs		-	12,000.00
Administrators' Disbursements		-	727.99
Storage Costs		-	661.43
Bank Charges		3.00	26.10
		<u>11,574.68</u>	<u>70,717.40</u>
<b>BALANCE IN HAND</b>			
Current account		18.05	14,399.38
VAT control account		-	17.48
		<u>18.05</u>	<u>14,416.86</u>
			<u>85,134.26</u>

BDO LLP  
55 Baker Street  
London  
W1U 7EU

Malcolm Cohen & Shane Crooks  
Joint Administrators

3 January 2020

Notes

1. Additional third party funding has also been paid directly to BDO LLP, as outlined in the report.

Name of Assignment

Oxus Gold Plc

00259908

Summary of Time Charged and Rates Applicable for the Period From 09/06/2019 to 08/12/2019

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL		AV RI
	Hours	Total	Hours	Total	Hours	Total	Hours	Total	Hours	Total	Hours	Total	Hours	Total	£
C. Planning and Strategy		£	1.00	604.00					2.60	442.00			3.60	1,046.00	290.5
D. General Administration	0.10	54.90	7.00	3,887.30	0.70	91.70	1.00	96.10	26.90	4,213.10			35.70	8,343.10	233.7
H. Creditor Claims					0.20	38.40							0.20	38.40	192.0
I. Reporting			0.50	293.00					2.50	572.50			3.00	865.50	288.5
J. Distribution and Closure			4.80	2,863.20									4.80	2,863.20	596.5
	0.10	54.90	13.30	7,647.50	0.90	130.10	1.00	96.10	32.00	5,227.60	0.00	0.00			

Net Total

47.30 13,156.20

Secretarial Expense

0.00

Other Disbursements

0.00

Billed

0.00

Grand Total

13,156.20

Name of Assignment

Oxus Gold Plc

00259908

## Detail of Time Charged and Rates Applicable for the Period From 27/01/2016 to 08/12/2019

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL	
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £
<b>B. Steps on Appointment</b>														
02. Statutory Documentation									26.00	3,068.00			26.00	3,068.00
06. Third Party Discussions									11.50	1,357.00			11.50	1,357.00
07. Attendance at Premises									14.50	1,711.00			14.50	1,711.00
09. Preparation of Proposals									32.50	3,835.00			32.50	3,835.00
12. Setting up Internal Files									0.50	59.00			0.50	59.00
99. Other Matters									1.50	310.50			1.50	310.50
sub total -				0.00					86.50	10,340.50			86.50	10,340.50
<b>B. Steps on Appointment</b>														
<b>C. Planning and Strategy</b>														
03. Review Bus. Process/Systems									0.50	78.50			0.50	78.50
07. Strategy Planning	6.50	4,561.00	1.00	604.00					2.60	442.00			10.10	5,607.00
08. Reporting			0.60	336.00									0.60	336.00
sub total -	6.50	4,561.00	1.60	940.00					3.10	520.50			11.20	6,021.50
<b>C. Planning and Strategy</b>														
<b>D. General Administration</b>														
01. Insurance Matters			0.30	168.00									0.30	168.00
02. VAT			2.75	1,410.20	0.05	6.20			4.85	783.40			7.65	2,199.80

Name of Assignment

Oxus Gold Plc

00259908

## Detail of Time Charged and Rates Applicable for the Period From 27/01/2016 to 08/12/2019

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL	
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £
03. Taxation			1.00	478.00					1.25	196.25			2.25	674.25
04. Instruct/Liase Solicitors	30.15	21,428.00	52.20	27,031.20					41.00	9,431.00			123.35	57,890.20
05. Investigations			0.90	451.80									0.90	451.80
07. Receipts/Payments Accounts			2.60	568.25	1.05	137.45	2.35	343.00	39.40	4,134.35	3.25	247.85	48.65	5,430.90
08. Remuneration Issues			1.80	1,007.90									1.80	1,007.90
09. Statutory Matters			21.20	11,973.90									21.20	11,973.90
10. Contractual Matters									0.50	85.00			0.50	85.00
11. Court Hearings	13.00	9,484.50	150.00	83,370.50									163.00	92,855.00
13. General Meetings									3.50	640.50			3.50	640.50
14. General Discussions									3.00	459.00			3.00	459.00
15. Gen. Admin/Correspondence	0.80	402.30	93.00	47,113.00	0.70	91.70	2.40	298.55	170.70	24,335.40			267.60	72,240.95
16. Maintain Internal Files									3.75	536.25			3.75	536.25
<b>sub total - D. General Administration</b>	<b>43.95</b>	<b>31,314.80</b>	<b>325.75</b>	<b>173,572.75</b>	<b>1.80</b>	<b>235.35</b>	<b>4.75</b>	<b>641.55</b>	<b>267.95</b>	<b>40,601.15</b>	<b>3.25</b>	<b>247.85</b>	<b>647.45</b>	<b>246,613.45</b>
<b>E. Assets Realisation/Dealing</b>														
09. Dealing with other Assets			0.10	24.00									0.10	24.00

Name of Assignment

Oxus Gold Plc

00259908

## Detail of Time Charged and Rates Applicable for the Period From 27/01/2016 to 08/12/2019

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL	
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £
14. Sale of Business/Assets			6.50	3,718.00					17.25	3,846.75			23.75	7,564.75
sub total - E. Assets Realisation/Dealing			6.60	3,742.00					17.25	3,846.75			23.85	7,588.75
G. Employee Matters														
02. Dealing with Employees			2.30	509.30					16.70	2,018.70			19.00	2,528.00
99. Other Matters											0.30	31.20	0.30	31.20
sub total - G. Employee Matters			2.30	509.30					16.70	2,018.70	0.30	31.20	19.30	2,559.20
H. Creditor Claims														
03. Preferential Creditors									1.50	196.50			1.50	196.50
04. Non-Preferential Creditors			2.40	1,121.20					3.85	749.35			6.25	1,870.55
99. Other Matters					0.20	38.40							0.20	38.40
sub total - H. Creditor Claims			2.40	1,121.20	0.20	38.40			5.35	945.85			7.95	2,105.45
I. Reporting														
01. Statutory Reporting	0.25	190.00	5.25	1,201.40	2.75	341.00	3.85	465.30	125.80	16,849.60			137.90	19,047.30
02. Reporting to Appointor			0.70	410.20									0.70	410.20
04. Reporting to Creditors	1.00	750.50	32.40	17,440.50					10.00	1,726.00			43.40	19,917.00

Name of Assignment

Oxus Gold Plc

00259908

## Detail of Time Charged and Rates Applicable for the Period From 27/01/2016 to 08/12/2019

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL	
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £
99. Other Matters									0.75	171.75			0.75	171.75
sub total - <b>I. Reporting</b>	1.25	940.50	38.35	19,052.10	2.75	341.00	3.85	465.30	136.55	18,747.35			182.75	39,546.25
<b>J. Distribution and Closure</b>														
01. Closure Planning			4.80	2,863.20									4.80	2,863.20
sub total - <b>J. Distribution and Closure</b>			4.80	2,863.20									4.80	2,863.20
												<b>Net Total</b>	317,638.30	
												<b>Secretarial Expense</b>	0.00	
												<b>Other Disbursements</b>	0.00	
												<b>Billed</b>	0.00	
												<b>Grand Total</b>	317,638.30	



## Oxus Gold Plc - In Administration

### Fees Estimate to Accrued Time Comparison

Below is the Joint Administrators' Fees Estimate annotated with a column showing the time costs accrued in respect of each activity.

<b>Fees Estimate as at 26 January 2017, compared to accrued time to 8 December 2019</b>				
<b>Joint Administrators' Fees</b>				
	Total	Blended	Estimated	Accrued
	Hours	Rate	Fee	Time Costs
		£	£	£
<b>Summary Activity</b>				
A. Pre Appointment Matters				-
B. Steps on Appointment	86.50	119.54	54,400.00	10,340.50
C. Planning and Strategy	11.20	537.63		6,021.50
D. General Administration	647.45	231.05	14,556.00	188,723.25
D.04 - Instruct/Liaise with Solicitors	55.00	510.00	28,050.00	57,890.20
E. Assets Realisation/Dealing	23.85	318.19	-	7,588.75
F. Trading Related Matters	-	-	-	-
G. Employee Matters	19.30	132.60	-	2,559.20
H. Creditor Claims	7.95	264.84	-	2,105.45
I. Reporting	182.75	248.21	7,198.00	39,546.25
J. Distribution & Closure	4.8	559.00	-	2,863.20
<b>TOTAL</b>	<b>1038.80</b>	<b>305.77</b>	<b>104,204.00</b>	<b>317,638.30</b>
<b>Expenses Estimate</b>				
Officeholder CAT 1 Disbursements			632.97	924.60
Officeholder CAT 2 Disbursements			187.50	0.00
Other Expenses				
Agents' Costs			Nil	Nil
Valuers' Costs			Nil	Nil
Solicitors' costs			43,000.00	57,088.45

The original Fees Estimate provided to creditors in the proposals was for a total of £104,204.00 to be incurred for the period to January 2017. Whilst the total of £317,638.30 is already higher than the Fees Estimate, the amount of £165,396.00, representing the total fees paid to the Joint Administrators to date, has been paid directly by Gretton, and has not been drawn from the Administration estate.



#### **Detail of Work Undertaken**

The Joint Administrators have sought to delegate tasks as far as possible, but the issues affecting the Company have necessarily required a high input from more experienced and senior staff.

Our principal areas of work during the Period have comprised the liaison with the litigation funder, preparation and despatch of the last report to creditors in June 2019 and responding to shareholder enquiries.



## Oxus Gold Plc - In Administration

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 above insolvency.

The current charge out rates per hour of staff within my firm who may be involved in working on the insolvency, follows:

GRADE	£
Partner	783
Manager	346-604
Assistant Manager	311
Senior Administrator	291
Administrator	170-291
Other Staff	92-114

This in no way implies that staff at all such grades will work on the case. The rates charged by BDO LLP are reviewed on a regular basis 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 six 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.

### 1) Other Costs

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



**2) Category 1**

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, couriers, travel (by public transport), land registry searches, fees in respect of swearing legal documents etc. In each case the recharge will be reimbursement of a specific expense incurred.

**3) Category 2**

We propose to recover from the estate the cost of travel where 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 HM Revenue & Customs 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 (England and Wales) Rules 2016 to recover this disbursement.

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

BDO LLP  
7 January 2020



**Statement from the Insolvency (England and Wales) Rules 2016 regarding the rights of creditors in respect of the Joint Administrators' fees and expenses:**

**Creditors' and members' requests for further information in administration, winding up and bankruptcy**

**18.9.**—(1) The following may make a written request to the office-holder for further information about remuneration or expenses (other than pre-administration costs in an administration) set out in a progress report under rule 18.4(1)(b), (c) or (d) or a final report under rule 18.14—

- (a) a secured creditor;
- (b) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question);
- (c) members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company;
- (d) any unsecured creditor with the permission of the court; or
- (e) any member of the company in a members' voluntary winding up with the permission of the court.

(2) A request, or an application to the court for permission, by such a person or persons must be made or filed with the court (as applicable) within 21 days of receipt of the report by the person, or by the last of them in the case of an application by more than one member or creditor.

(3) The office-holder must, within 14 days of receipt of such a request respond to the person or persons who requested the information by—

- (a) providing all of the information requested;
- (b) providing some of the information requested; or
- (c) declining to provide the information requested.

(4) The office-holder may respond by providing only some of the information requested or decline to provide the information if—

- (a) the time or cost of preparation of the information would be excessive; or
- (b) disclosure of the information would be prejudicial to the conduct of the proceedings;
- (c) disclosure of the information might reasonably be expected to lead to violence against any person; or
- (d) the office-holder is subject to an obligation of confidentiality in relation to the information.

(5) An office-holder who does not provide all the information or declines to provide the information must inform the person or persons who requested the information of the reasons for so doing.

(6) A creditor, and a member of the company in a members' voluntary winding up, who need not be the same as the creditor or members who requested the information, may apply to the court within 21 days of—

- (a) the office-holder giving reasons for not providing all of the information requested; or
- (b) the expiry of the 14 days within which an office-holder must respond to a request.

(7) The court may make such order as it thinks just on an application under paragraph (6).

**Remuneration and expenses: application to court by a creditor or member on grounds that remuneration or expenses are excessive**

**18.34.**—(1) This rule applies to an application in an administration, a winding-up or a bankruptcy made by a person mentioned in paragraph (2) on the grounds that—

- (a) the remuneration charged by the office-holder is in all the circumstances excessive;
- (b) the basis fixed for the office-holder's remuneration under rules 18.16, 18.18, 18.19, 18.20 and 18.21 (as applicable) is inappropriate; or
- (c) the expenses incurred by the office-holder are in all the circumstances excessive.

(2) The following may make such an application for one or more of the orders set out in rule 18.36 or 18.37 as applicable—



- (a) a secured creditor,
  - (b) an unsecured creditor with either—
    - (i) the concurrence of at least 10% in value of the unsecured creditors (including that creditor), or
    - (ii) the permission of the court, or
  - (c) in a members' voluntary winding up—
    - (i) members of the company with at least 10% of the total voting rights of all the members having the right to vote at general meetings of the company, or
    - (ii) a member of the company with the permission of the court.
- (3) The application by a creditor or member must be made no later than eight weeks after receipt by the applicant of the progress report under rule 18.3, or final report or account under rule 18.14 which first reports the charging of the remuneration or the incurring of the expenses in question (“the relevant report”).

#### **Applications under rules 18.34 and 18.35 where the court has given permission for the application**

**18.36.**—(1) This rule applies to applications made with permission under rules 18.34 and 18.35.

- (2) Where the court has given permission, it must fix a venue for the application to be heard.
- (3) The applicant must, at least 14 days before the hearing, deliver to the office-holder a notice stating the venue and accompanied by a copy of the application and of any evidence on which the applicant intends to rely.
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders—
- (a) an order reducing the amount of remuneration which the office-holder is entitled to charge;
  - (b) an order reducing any fixed rate or amount;
  - (c) an order changing the basis of remuneration;
  - (d) an order that some or all of the remuneration or expenses in question is not to be treated as expenses of the administration, winding up or bankruptcy;
  - (e) an order for the payment of the amount of the excess of remuneration or expenses or such part of the excess as the court may specify by —
    - (i) the administrator or liquidator or the administrator's or liquidator's personal representative to the company, or
    - (ii) the trustee or the trustee's personal representative to such person as the court may specify as property comprised in the bankrupt's estate;
  - (f) any other order that it thinks just.
- (5) An order under paragraph (4)(b) or (c) may only be made in respect of periods after the period covered by the relevant report.
- (6) Unless the court orders otherwise the costs of the application must be paid by the applicant, and are not payable as an expense of the administration, winding up or bankruptcy.

#### **Applications under rule 18.34 where the court's permission is not required for the application**

**18.37.**—(1) On receipt of an application under rule 18.34 for which the court's permission is not required, the court may, if it is satisfied that no sufficient cause is shown for the application, dismiss it without giving notice to any party other than the applicant.

- (2) Unless the application is dismissed, the court must fix a venue for it to be heard.
- (3) The applicant must, at least 14 days before any hearing, deliver to the office-holder a notice stating the venue with a copy of the application and of any evidence on which the applicant intends to rely.
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders—



- (a) an order reducing the amount of remuneration which the office-holder is entitled to charge;
  - (b) an order reducing any fixed rate or amount;
  - (c) an order changing the basis of remuneration;
  - (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration or winding up or bankruptcy;
  - (e) an order for the payment of the amount of the excess of remuneration or expenses or such part of the excess as the court may specify by –
    - (i) the administrator or liquidator or the administrator's or liquidator's personal representative to the company, or
    - (ii) the trustee or the trustee's personal representative to such person as the court may specify as property comprised in the bankrupt's estate;
  - (f) any other order that it thinks just.
- (5) An order under paragraph (4)(b) or (c) may only be made in respect of periods after the period covered by the relevant report.
- (6) Unless the court orders otherwise the costs of the application must be paid by the applicant, and are not payable as an expense of the administration or as winding up or bankruptcy.