

General notes on the status of the various investigations

The general notes to previous reports mention that the trustees will conduct a number of audits (or arrange for this to be done),

including:

- an audit of the accounts;
- an investigation into the role played by principal banker, Rabobank;
- an investigation into the legal validity/scope of the securities of Rabobank;
- an investigation into the conduct of the management board and supervisory directors;
- an investigation into the failure of the software project.

The trustees have previously noted that all these investigations are investigations that are typically associated with bankruptcies and that the sole fact that the trustees have decided that the above matters require further investigation should not lead anyone to now conclude that the people who are the object of the investigation are to blame in any way. Such a conclusion can only be drawn if the results of the investigations justify it.

In the notes to **report 5**, the trustees stated that, given the large number of investigations and the large quantity of data that are available to the trustees and the investigators called in by them, they thought it would be wise to instruct a third party, prior to launching the various investigations, to compile a fact base for the trustees and investigators to draw on for the purposes of their research.

By "fact base", the trustees mean a digital data room that can only be accessed through a secure connection by people designated by the trustees, and which contains all information that the trustees deem relevant to the various investigations. This data room, which is compiled on the basis of the physical and digital records available and the input from third parties, was put together and populated in **reporting period 6**. The completion of the data room was the signal to launch various investigations in that and the subsequent period.

At the time of the compilation of this report, the following investigations are ongoing:

1. investigation into the conduct/securities position of Rabobank;
2. investigation into the causes of the bankruptcies;
3. investigation into (the status of the) accounts.

Re 1. Investigation into Rabobank

The external lawyer called in by the trustees has investigated the role of Rabobank in connection with the termination of the credit relationship with the Oad companies, using, among other things, the data as included in the data room. In addition, this external lawyer investigated the securities position of Rabobank (especially Rabobank's request, just before the bankruptcies, to provide security).

Before drawing conclusions, the trustees think it is wise to wait for the outcome of the proceedings pending between the Stichting Administratiekantoor OAD Groep Holding (hereinafter "the Stichting") and Rabobank. During these proceedings, developments may occur that are relevant to the investigation the trustees are carrying out or having carried out into the conduct and securities position of Rabobank. The investigation into the causes of the bankruptcies (see under 2 below) could reveal facts and circumstances that may be relevant to judging the role played by Rabobank.

To secure the position of the estates in relation to Rabobank and to prevent the loss of any rights, the trustees, with permission from the deputy bankruptcy judge, have decided to (ultimately) summon the Rabobank, which has since been done. This is not to say that the trustees have already reached the conclusion that Rabobank is to blame in any way. It only means that the trustees seek to secure any claims from the estates against Rabobank pending the further developments in the proceedings between the Stichting and Rabobank.

In **reporting period 7** the Midden Nederland District Court dismissed the claims of the Stichting. The Stichting has lodged an appeal. This appeal is being awaited, but in the meantime the trustees also wish to form an opinion for themselves, where possible, about whether or not Rabobank may be blameworthy at law. The trustees have been working on this in this reporting period. This will also be a matter of significant attention in period 8.

2. Investigation into the causes of the bankruptcies

In **reporting period 6** the trustees have launched an Investigation into the causes of the bankruptcies. The trustees note that this investigation is separate from the investigation into the conduct of Rabobank, in relation to the causes of the bankruptcy. The trustee are having this investigated separately (see above). The investigation into the causes of the bankruptcies carried out by the trustees focuses on, for example, the conduct of the management board and supervisory directors and the failure of the computerisation project.

In the investigation into the causes of the bankruptcies, the trustees largely follow the following approach: first, a *fact-finding investigation* will be conducted; The trustees, using, among other things, external sources included in the data room, have created a facts list for that purpose. The facts recorded by the trustees will be supplemented with interviews with (former) directors, supervisory directors and other people that the trustees deem important.

In **reporting period 6** the first interviews were conducted. In **reporting period 7** additional interviews were conducted. So far, only directors and supervisory directors have been interviewed. In reporting period 8 the trustees will conduct additional interviews with other persons directly involved (including advisers).

Following the fact-finding investigation based on the interviews and a closer investigation into the facts included in the data room, the trustees will *establish* the facts. This means that based on everything the trustees have heard and ready, they will list the (hard) facts. It is conceivable that the trustees will want to examine those they have interviewed previously should any facts be contradictory or unclear. In the end, the facts established by the trustees will be collected in a *statement of the facts*.

Based on this statement of the facts, the trustees will *formulate the causes* of the bankruptcies, culminating in a *statement of the causes*.

Then, based on the statement of the causes, the trustees will ascertain whether any steps need to be taken in relation to certain natural or legal persons because they are to blame for any causes of the bankruptcies.

At that stage of the investigation, the trustees will probably call in an external lawyer to advise them on the chances of success of any proceedings. Proceedings will only be conducted in consultation with and after obtaining permission from the (deputy) bankruptcy judge.

During the further course of the investigation into the causes, there may be situations that force the trustees to adopt a different approach from that stated above. The trustees consider themselves free to adopt a different approach if necessary.

3. Investigation into (the status of the) accounts.

In **reporting period 6** the trustees asked an internationally operating office with forensic accounts to perform a quick scan of the accounting methods employed, using data included in the data room. The result of this investigation was communicated to the trustees in **reporting period 7**. The trustees note that they will not share or disclose the outcome of the said investigation until the investigation into the causes of the bankruptcy is completed. The reason for this is the fact that new facts and circumstances relating to the accounts may come to light when the facts are being established.

Final remark

All that remains is for the trustees to repeat their previous comment to the effect that, as stated in the general notes to previous reports, the various investigations will take some time. All the more because the trustees consider it very important that these are carried out with utmost care.

This requires, among other things, that prior to drawing final conclusions with regard to certain natural or legal persons, the persons involved will be given the opportunity to respond, based on the principle of hearing both sides of the argument. For this reason alone, it will take quite some time before the trustees can present any conclusions in public reports relating to the various investigations.

Zwolle/Holten, 1 May 2016

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