



Oifig an Stiúrthóra um
Fhorfheidhmiú Corparáideach

Office of the Director
of Corporate Enforcement

ODCE Information Notice I/2009/1

Reduced Liquidator Reporting to the ODCE

30 January 2009

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Summary

1. The Director of Corporate Enforcement (“the Director”) has decided that, in future, the liquidators of insolvent companies will generally not be required to submit further or final reports to his Office (ODCE) in cases where the decision has been taken to definitively relieve, or definitively not relieve, the liquidators of their statutory obligation to take High Court restriction proceedings against a company’s directors.

Introduction

2. The liquidators of insolvent companies have a statutory obligation to report to the Director pursuant to Section 56 of the Company Law Enforcement Act 2001 within six months of the date of their appointment. The purpose of the report is to outline the state of affairs of the company in liquidation and to provide information on the conduct of its directors prior to liquidation. On receipt of the first report, the ODCE decides to what extent the liquidator should be definitively relieved from his or her statutory obligation to take High Court restriction proceedings against all of the company’s directors (the “decision”¹).
3. Once the decision is made, the liquidator is currently required to provide further reports at intervals determined by the Director. The present practice is usually to require further reports on an annual basis until the liquidation is completed. In addition, the liquidator is obliged to provide a final report on completion of the liquidation.

Outcome of Recent Review

4. Following a recent review of liquidator reports, the Director has now decided that, with effect from 1 February 2009, liquidators will no longer be required to submit further or final reports once the decision to relieve, or not to relieve, has been

¹ A decision for the purposes of this document is where the Director has exercised his statutory function to definitively relieve, or not relieve, a liquidator of an insolvent company from the obligation to take restriction proceedings against the company’s directors. Where investigations have not been completed, a letter granting “relief at this time” may be made in order to allow more time for the completion of such investigations. Such letters are not regarded as decisions in the context of this document.

made. However and notwithstanding these revised procedures, the Director reserves the right, in all cases, to request further reports at any time where he considers that the circumstances of a particular case deem it to be appropriate.

5. Where liquidators are granted additional time to complete investigations by the issue of 'relief at this time' letters, the requirement for further reports will continue until such time as the Director is in a position to make the appropriate decision. At that stage, the requirement for any further reports will cease.

Transitional Issues

6. There are cases where the decision has already been made and where liquidators have already been requested to provide a further or final report to the Director. As a result of the new procedures, all such requests issued prior to 1 February 2009 are now being withdrawn. All liquidators who are due to submit further or final reports to the ODCE are being informed of the new procedures.

Reporting of the Outcome of Restriction Proceedings

7. The Director will continue to require liquidators to inform his Office of the progress and eventual outcome of restriction applications where these arise.

Reporting on the Progress of Liquidations

8. In addition, the Director may, from time to time, seek reports on the progress of individual liquidations and seek explanations for any undue delays in completing them.

Conclusion

9. The Director will keep these revised procedures under review to ensure in particular that the integrity and effectiveness of the Section 56 process is maintained. He reserves the right to make further procedural changes in the future. He will also continue to encourage liquidators to comply with their statutory obligations, including their filing requirements with the Companies Registration Office (CRO). The creditors of insolvent companies are of course primarily responsible for supervising company liquidations.

10. The Director believes that these revised procedures will reduce some of the reporting duties of liquidators and their attendant costs. The new procedures will also help his Office to manage the large number of new insolvent liquidations which have recently emerged and which will be the subject of liquidator reports in 2009.

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