

# INSOLVENCY REPORT

Insolvency Report no. 22 by the Administrators of

**DSB Bank N.V.**

**31 July 2014**

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*The public insolvency reports of DSB Bank N.V. (**DSB Bank**) are published online on the website [www.dsbbank.nl](http://www.dsbbank.nl). The administrators of DSB Bank (**Administrators**) will also be using these websites in the future to publish other information concerning the case and the progress of the insolvency proceedings.*

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## **MAIN POINTS OF THIS REPORT**

- At the end of June 2014, a seventh interim distribution (again of 4%) was made to the allowed unsecured creditors, totalling approximately €148 million. This brings the total distributions to unsecured creditors to €1.465 billion (39% of the total claims, amounting to €3.8 billion).
- As at 30 June 2014, the total amount of DSB Bank's loans was €4.6 billion, of which €2.7 billion was on the bank's own books and €1.9 billion was in the form of securitised loans.
- In the case brought by the Administrators in conjunction with three stakeholder organisations representing customers with claims on DSB Bank against the Nederlandsche Bank (**DNB**), the District Court in Amsterdam gave an interim judgement on 25 June 2014. This interim judgement (**Annex 4** to this Report) rules among other things that the case will be considered by the bench of the District Court on **Tuesday, 16 December 2014, at 9:30** (with possible continuation on Friday, 19 December 2014, at 9:30). The purpose of this session will be to provide information and to explore an amicable settlement.
- The Heads of Agreement reached between the Administrators and two Stakeholder Organisations together with five legal assistance organisations (**Stakeholder Organisations**) and nine insurers (**Insurers**) on 19 September 2011 contains a Scheme (**Scheme**) for the award of compensation in cases of actual or alleged dereliction of the duty of care (mis-selling) applying to existing and former customers of DSB Bank who were sold single-premium payment protection insurance, investment plans or securities-backed lending products and customers with complaints relating to excessive lending. Part of the Scheme is that the Administrators, the Stakeholder Organisations and the Insurers (**Applicants**) requested the Amsterdam Court of Appeal (the **Court**) in May 2013

to declare the scheme binding under the Collective Mass Claims Settlement Act (**WCAM**). For all material developments and documentation relating to this application, see [www.dsbcompensatie.nl](http://www.dsbcompensatie.nl) (the joint website of the Administrators and the Stakeholder Organisations) and section 5.2 of this report.

- In its second interim ruling of 13 May 2014, the Court indicated among other things (see consideration 8.1) that it was of the opinion ‘... *that the formal requirements had been satisfied and that the content of the WCAM agreement broadly followed a suitable approach. For many customers, the Scheme provided a relatively simple, swift and low-cost way of compensating them for their trouble due to the lack of care on the part of DSB Bank.*’ The Court did, however, go on to say that it found the compensation offered under the present WCAM agreement not always to be reasonable, or at least that it still had a number of questions. The Applicants are unable to accept this criticism and, in a letter dated 13 June 2014, turned to the Court in an effort to expedite the swift further settlement of the WCAM application – if necessary taking the case to the Supreme Court. The Court responded constructively in a letter dated 26 June 2014.
- On 8 July 2014, the Applicants submitted a Further Explanation to the Court, including an amended WCAM agreement in which the Applicants had added amendments of a conditional nature in the sense that the Applicants would not be bound by them if the Court failed to declare the amended WCAM agreement binding. The Applicants are of the opinion that any amendments made should also be applied to the benefit of customers who have already accepted a compensation offer under the Heads of Agreement. If the Court agrees with the amended WCAM agreement, it will mean that it will cost DSB Bank a total of approximately €20 million extra in payments to customers whose compensation has already been processed. In other words, this excludes the additional costs for the new claims received during the opt-in period under the WCAM.
- Customers can claim compensation under the Scheme. Large numbers of customers are availing themselves of the Scheme.
  - 35,661 applications (average of almost 2 customers per application) have been submitted, of which:
    - 30,776 have led to offers of compensation for PPI mis-selling. Of these, 28,555 have been accepted by the customers;
    - 2,442 have led to offers of compensation for excessive lending. Of these, 2,303 have been accepted by the customers;
  - The PPI mis-selling compensation amounts to an average of €4,896 and the excessive lending compensation averages €8,630 per case;

- The costs relating to duty of care, including a reserve for applications still to be settled, as at 30 June 2014 amounted to €215 million (excluding the additional €20 million, approximately, if the amended WCAM agreement is declared binding);
  - To date in 2014, DSB Bank has been receiving an average of 63 new applications a week. It will in any case continue to be possible to submit applications up to 31 December 2014 (or earlier if the WCAM agreement is declared binding) – see for further details section 5.2 of this report.
- DSB Bank, as holder of a pledge on the shares of Waard Leven B.V. (**Waard Leven**) and Waard Schade B.V. (**Waard Schade**) and as shareholder of Tadas Verzekeringen B.V. (**Tadas**) is involved in the preparations for the process of selling off these entities, which is making good progress. The disposal process is at an advanced stage: one of the potential buyers has already signed a term sheet and is currently engaged in a due diligence examination. Partly in view of the subsequent process involving DNB (approval and declarations of no objection), it is unlikely that delivery of the shares and receipt of payment will take place before the end of the year at the earliest.
- The Administrators raised a special short-term loan facility originally totalling €1 billion from several Dutch banks. Borrowing under the special short-term loan facility currently stands at €235 million (position as at 30 June 2014 was €351 million).