

De Nederlandsche Bank

Austrian Central Bank
A-1090 VIENNA
OOSTENRIJK

Date

23 December 2005

Page number

5 ENCLOSURE

Our reference

Ban/2005/03462/ipb

Enclosure 2

UNOFFICIAL TRANSLATION OF THE DUTCH-LANGUAGE ORIGINAL

Petition pursuant to Section 71(1) of the Act on the Supervision of the Credit System 1992 (*Wet toezicht kredietwezen 1992*)

To the District Court
in Amsterdam

Informs respectfully,

the public limited company (*naamloze vennootschap*) **DE NEDERLANDSCHE BANK N.V.**, hereinafter also referred to as 'DNB', having its registered office and principal place of business in Amsterdam, electing domicile in the present case on Strawinskylaan 1999, at the office of NAUTADUTII-H N.V., attorneys at law, notaries public and tax consultants, where the case is being handled by Mr D.A. van der Stelt, attorney at law and procurator, who will sign and submit this petition.

1. This petition is directed against the public limited company (*naamloze vennootschap*) **VAN DER HOOP BANKIERS N.V.**, having its registered office and principal place of business in Amsterdam (1017BS) on 469 Herengracht, hereinafter also referred to as 'Van der Hoop'. An original and certified extract from the entry on Van der Hoop in the Trade Register is produced as **exhibit 1**.
2. Van der Hoop is an enterprise or institution whose business is to receive funds repayable on demand or subject to notice being given, and to grant credits or make investments for its own account, and is therefore a credit institution as meant in Section 1 of the Act on the Supervision of the Credit System 1992 (*Wet toezicht kredietwezen 1992*/hereinafter: 'the Act').
3. Pursuant to Section 6(1) of the Act, no enterprise or institution established in the Netherlands shall pursue the business of a credit institution, except to the extent that it has obtained authorization to that end from DNB or to the extent that it has been granted exemption from this prohibition by the Minister of Finance or been granted dispensation from this prohibition by DNB.
4. Van der Hoop has obtained authorization as meant above under 3.32

³² The Act on the Supervision of the Credit System 1992 (*Wet toezicht kredietwezen 1992*) was amended by Act of 7 April 2005 (Staatsblad 2005), and entered into force on 15 May 2005 as stipulated by Decree of 27 April 2005 (Staatsblad 2005).

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5. In the opinion of DNB, the solvency and the liquidity of Van der Hoop shows signs of a dangerous development whereas no improvement in that development may in reason be expected.

Explanation

Liquidity

6. Liquidity may be defined as the ability of an institution to meet its payment obligations at all times. An adequate liquidity position may be said to exist if at least short-term claims exceed short-term debts. In view of the above the liquidity position of Van der Hoop is inadequate.

Solvency

The solvency of an institution provides an indication of an institution's ability to meet its obligations in the longer term as well. An institution is said to have adequate solvency if it has a certain minimum buffer capital ('own funds'). The own funds of the institution must at least exceed its so-called 'actual own funds'. Under the directives issued by DNB, actual own funds must equal at least 8 per cent of the weighted risk inherent in the assets on an institution's balance sheet.

7. DNB was informed on 9 December 2005 that the potential buyer of Van der Hoop has withdrawn on account of negative findings in the due diligence examination carried out by this potential buyer, the examination having revealed several potential losses. Under the 'best case scenario', the own funds of Van der Hoop must be adjusted downwards by over EUR 8.5 million, taking its solvency ratio down to 4.5 per cent, which is far below the statutory minimum requirement of 8 per cent. Under the 'worst case scenario', this ratio might come out even lower.
8. Van der Hoop is a listed company. If the public has been informed over the past weekend on the decision of the potential buyer, this announcement may cause creditors of Van der Hoop to reclaim the sight deposits entrusted to Van der Hoop, which would cause Van der Hoop to run into acute liquidity problems, since as per 9 December 2005 the balance of sight deposits entrusted to Van der Hoop runs to over EUR 140 million, whereas Van der Hoop currently has only EUR 68 million's worth of credit facilities from which to pay out funds withdrawn. This means that there is an immediate potential liquidity deficit of EUR 72 million.

Petition

9. On the above grounds, DNB petitions the District Court to declare, pursuant to Section 71(1) of the Act, its decision, immediately enforceable by law (pursuant to Section 71(8) of the Act), stating the time of this decision to the nearest minute (pursuant to Section 71(12) of the Act) that Van der Hoop is in a position requiring special measures in the interests of the combined creditors, with the appointment of one or more receivers and with such decision on the duration as will be deemed appropriate by your Court.

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10. DNB has sent a copy of this petition to Van der Hoop (under Section 71[3] of the Act) and petitions the Court of Justice to decide the case with the utmost dispatch (under Section 71[4] of the Act) after having heard DNB (under section 71[6] of the Act).
11. DNB requests your Court, in accordance with Section 71(7) of the Act as amended on 15 May 2005, to appoint a member of your Court and, pursuant to the same Section, proposes the appointment of count R.J. Schimmelpenninck, attorney at law and procurator in Amsterdam, as receiver, in view of count Schimmelpenninck's relevant expertise and experience in the field of insolvency law and banking law and furthermore proposes the appointment of Mr H.P. de Haan, former partner of Ernst & Young, as receiver besides count Schimmelpenninck.
12. Finally, DNB requests the Court, if it grants the request included in this petition to apply the Emergency Regulation, to record the time of its decision to the nearest minute (under Section 71(2) of the Act) and to ensure, pursuant to Section 71(8) of the Act (as likewise amended on 15 May 2005), that the receiver or the registrar of your Court has a summary of the said decision inserted without delay in *Staatscourant* (the Dutch Government Gazette), the *Official Journal* of the European Union and in two daily newspapers published in the Netherlands and to be designated for the purpose by the Court.

Amsterdam, 9 December 2005

Procurator

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This case is handled by D.A. van der Stelt (E. Goudsblom), NautaDutilh, Postbus 7113, 1007 IC Amsterdam, T: 020 - 7171862/832, F: 020-7171379; E: dick.vanderstelt@nautadutilh.com