

EESTI PANK
GOVERNOR'S DECREE

Tallinn

14 May 1999 No. 10

**Approval of the procedure of submitting
reports of liquidators of a credit institution and
reports of the interim trustee in bankruptcy
and trustee in bankruptcy of a credit institution**

Based on Articles 120(6) and 128 Subclause 5 of the Credit Institutions Act (RT I 1999, 23, 349)

Eesti Pank resolves:

1. To approve "The requirements to reports of the interim trustee in bankruptcy and trustee in bankruptcy of a credit institution and procedure of submitting thereof" and "The requirements to reports of liquidators of a credit institution and procedure of submitting liquidation reports" pursuant to Appendices No. 1 and 2 to this Procedure.
2. To declare Regulation No 24 of Eesti Pank of 5 February 1993 "Approval of the general procedure and terms of compulsory liquidation of banks and other credit institutions" null and void.
3. The Decree shall become effective on 1 July 1999.

/signature/

Vahur Kraft

Governor

Requirements to reports of the interim trustee in bankruptcy and trustee in bankruptcy of a credit institution and procedure of submitting thereof

The interim trustee in bankruptcy (Article 12¹ of the Bankruptcy Act (RT 1992, 31, 403; RT I 1997, 18, 302; 1998, 2 46; 36/37, 552; 1999, 10, 155)) and trustee in bankruptcy (Articles 29 and 31 of the Bankruptcy Act) (hereinafter referred to as the Trustee) shall submit the following reports to the Banking Supervision Department of Eesti Pank (hereinafter referred to as the Banking Supervision Department) during the bankruptcy proceeding:

1. Reports and statements specified in the Bankruptcy Act submitted by the Trustee to the court, bankruptcy committee or creditors' general meeting on due dates specified in the Bankruptcy Act submitting these simultaneously to a respective bankruptcy proceeding body. The reports and statements indicated below shall be prepared based on the terminology, structure and methods stipulated in Appendix No. 1 to Decree of the Governor of Eesti Pank of 31 January 1997 No. 2 "Reporting of credit institutions" (RTL 1997, 23, 131; 1999, 6, 65).
 - 1.1. Report and opinion of the Trustee in respect of the causes of the debtor's insolvency pursuant to Article 12¹(3) of the Bankruptcy Act.
 - 1.2. List of property pursuant to Article 56 of the Bankruptcy Act indicating the composition of the bankruptcy estate, including debts and claims by category and value of the property and data on encumbrances imposed on the debtor's property and other rights of third parties in respect of the property.
 - 1.3. Report on the bankruptcy estate pursuant to Article 59 of the Bankruptcy Act indicating the reason for insolvency and time of arising of insolvency, information on the recovery of the property, opinion on the existence of criminal elements related to bankruptcy and information on the notification of a criminal offence.
 - 1.4. Distribution proposal pursuant to Article 81 of the Bankruptcy Act indicating information on recognised claims, their priority and distribution ratios,

payments made pursuant to Article 83 of the Bankruptcy Act according to Clause 3.4 of this Procedure, information on proceeds from the sale of each object of pledge, information on the property received in the bankruptcy estate, information on the unsold bankruptcy estate and the property to be received by the debtor from other persons. If the court rejects the distribution proposal pursuant to Article 87(7) of the Bankruptcy Act, the Trustee shall submit a new distribution proposal to the Banking Supervision Department while simultaneously submitting these to the court.

- 1.5. Report on the bankruptcy proceeding pursuant to Article 97 of the Bankruptcy Act indicating the reasons why the bankruptcy proceeding has not been finished within two years upon the declaration of bankruptcy, information on the sold and unsold bankruptcy estate as well as information on the administration of the bankruptcy estate.
- 1.6. Final report pursuant to Article 94 of the Bankruptcy Act indicating the following: information on the bankruptcy estate and the funds received from sale thereof, payments made pursuant to Article 83 of the Bankruptcy Act according to Clause 3.4 of this Procedure, information on the money paid on the basis of distribution ratios according to the priority of claims, information on proceeds from the sale of each object of pledge; information on unsold property and property to be received by the debtor from other persons; information on the activity of the Trustee on administering the bankruptcy estate, part of the recognised claim of each creditor within which extent the creditor has not received money; information on the hearing of actions filed during the bankruptcy proceeding and actions to be filed by the Trustee pursuant to Clause 3.1 of this Procedure; information on the bankruptcy proceeding expenses pursuant to Clause 3.3 of this Procedure. The final balance sheet shall be appended to the final report.

If the court rejects the final report pursuant to Article 94(10) of the Bankruptcy Act, the Trustee shall submit a new adequate final report to the Banking Supervision Department while simultaneously submitting this to the court.

2. Reports of the credit institution set forth by Decrees of the Governor of Eesti Pank the preparation and submitting of which shall be continued during the bankruptcy proceeding.

During the period from the initiation of the bankruptcy until the arrival of the consequence pursuant to Article 14(6) of the Bankruptcy Act, the credit institution shall submit reports according to the procedure set forth by Eesti Pank.

Upon arrival of the consequence specified in Article 16 of the Bankruptcy Act, the reports shall be submitted as follows:

- 2.1. balance sheet pursuant to Appendix No.1 approved by Decree of the Governor of Eesti Pank of 31 January 1997 No. 2 "Reporting of credit institutions" (RTL 1997, 23, 131; 1999, 6 65);
- 2.2. note to the balance sheet "Calculation of immaterial and material fixed assets" pursuant to Appendix No. 3 approved by Decree of the Governor of Eesti Pank of 31 January 1997 No. 2 "Reporting of credit institutions";
- 2.3. income statement pursuant to Appendix No. 4 approved by Decree of the Governor of Eesti Pank of 31 January 1997 No. 2 "Reporting of credit institutions";
- 2.4. report on outstanding loans pursuant to Appendix No. 4 of Decree of the Governor of Eesti Pank of 1 April 1997 No. 10 "Additional reports of credit institutions";
- 2.5. report on overdue loans and/or provisioned loans pursuant to Appendix No. 5 approved by Decree of the Governor of Eesti Pank of 1 April 1997 No. 10 "Additional reports of credit institutions";
- 2.6. report on securities pursuant to Appendix No. 7 approved by Decree of the Governor of Eesti Pank of 1 April 1997 No. 10 "Additional reports of credit institutions";
- 2.7. report on contingent liabilities pursuant to Appendix to Decree of the Governor of Eesti Pank of 9 February 1999 No. 3 "Financial statements of credit institutions of the Republic of Estonia for the year 1998" (RTL 1999, 27, 331);

The monthly balance sheet specified in Clause 2.1 shall be submitted by the fifth banking day upon the end of the accounting month.

The reports specified in Clauses 2.2 and 2.7 shall be submitted in respect of the accounting month by the tenth banking day upon the end of a quarter. The report shall be submitted to the Banking Statistics and Analysis Department of Eesti Pank electronically in formats set forth by Appendices to Decrees of the Governor of Eesti Pank.

3. Other reports and documents related to the bankruptcy proceeding the Trustee shall submit:
 - 3.1. information on the hearing of actions filed during the bankruptcy proceeding specifying:
 - 3.1.1. jurisdiction of actions filed by the Trustee, basis for action, claim amount or any other content of the claim, date of submitting the statement of claim, information on the results of the settlement of claim (satisfied, partially satisfied, unsatisfied) in the court of the first instance and Supreme Court;
 - 3.1.2. basis for all actions and other petitions (complaints) filed in relation to the bankruptcy proceeding against the debtor or by creditors and other persons, amount of the claim or any other content of the claim, date of filing the claim or any other petition and on the results of settlement thereof (satisfied, partially satisfied, unsatisfied) at the court of the first instance, appellate court and Supreme Court;
 - 3.2. information on the notification of the prosecutor or police of the bankruptcy criminal offence or criminal offence related to economic activity if the information has been clarified and submitted after submitting the report specified in Clause 1.2 of this Procedure;
 - 3.3. information on the required expenses incurred by the Trustee specifying the class, amount, time of incurring and basis or cause of incurring of an expense;
 - 3.4. information on the payments made pursuant to Article 83 of the Bankruptcy Act and recovery of the property specifying:
 - 3.4.1. compensations arising from the consequences of the property recovery pursuant to Article 51 of the Bankruptcy Act - basis for compensation, beneficiary and amount of compensation or name and actual value of the recovered property;
 - 3.4.2. compensations arising from the exclusion of the property based on Article 53 of the Bankruptcy Act -
 - 3.4.2.1. person who receives the assets returned upon the request on recovery of the property satisfied by the Trustee, name of the property and actual value thereof;
 - 3.4.2.2. person who receives the property returned by a court order, name of the property and actual value thereof;
 - 3.4.2.3. person who receives the compensation upon the request on the exclusion of property satisfied by the Trustee and the amount of compensation;

3.4.2.4. person who receives the compensation by a court order and the amount of compensation.

Reports specified in Clauses 3.1 to 3.4 shall be submitted in respect of the accounting quarter by the tenth banking day upon the end of the quarter. Reports shall be submitted to the Banking Supervision Department in writing.

4. Other documents the Trustee shall submit:

- 4.1. Copy of the minutes of the meeting of defence of claims approved by the Trustee supplemented with a copy of the list of recognised claims. In the list, defended claims arising from contingent liabilities shall be specified separately;
- 4.2. Copies of the inspection report or materials on the audit conducted during the bankruptcy proceeding and approved by the Trustee;
- 4.3. Information on the registrar of a credit institution and list of documents and archives delivered to the registrar.

Copies of the documents specified in Clauses 4.1 and 4.2 approved by the Trustee shall be submitted within five banking days upon preparation thereof.

Documents specified in Clause 4.3 shall be submitted at least five banking days prior to the date of submitting the application on the deletion of a credit institution from the commercial register provided by law.

Requirements to reports of liquidators of a credit institution and procedure of submitting the liquidation report

Liquidators of a credit institution shall submit the following reports during the liquidation proceeding performed upon the resolution of the general meeting of the shareholders of a credit institution or court resolution on the liquidation of the credit institution and upon the end of the liquidation proceeding. The reports specified below shall be prepared based on the terminology, structure and methods stipulated in Appendix No. 1 to Decree of the Governor of Eesti Pank of 31 January 1997 No. 2 "Reporting of a credit institution" (RTL 1997, 23, 131; 1999, 6, 65).

1. liquidation balance sheet and income statement as of the date of the resolution on liquidation of a credit institution pursuant to the current requirements on annual financial statements of credit institutions approved by the Decree of the Governor of Eesti Pank, considering the recommendations provided in protocol resolution No. 10 - Clause 3 B (RTL 1995, 59, page 2023-2028) of the session of the Accounting Board of the Republic of Estonia held on 11 July 1995. The liquidation balance sheet and income statement shall be submitted within 1 month upon the date of the liquidation resolution of the credit institution.
2. Reports set forth by Decrees of the Governor of Eesti Pank the preparation and submitting of which shall be continued during the liquidation proceeding of credit institutions:
 - 2.1. balance sheet pursuant to Appendix No. 1 approved by Decree of the Governor of Eesti Pank of 31 January 1997 No. 2 "Reporting of credit institutions" (RTL 1997, 23, 131; 1999, 6, 65);
 - 2.2. note to the balance sheet "Calculation of immaterial and material fixed assets" pursuant to Appendix No. 3 approved by approved by Decree of the Governor of Eesti Pank of 31 January 1997 No. 2 "Reporting of credit institutions";

- 2.3. report on outstanding loans pursuant to Appendix No. 4 approved by Decree of the Governor of Eesti Pank of 1 April 1997 No. 10 "Additional reports of credit institutions" (RTL 1997, 53, 276);
- 2.4. report on overdue loans and/or provisioned loans pursuant to Appendix No. 5 approved by Decree of the Governor of Eesti Pank of 1 April 1997 No. 10 "Additional reports of credit institutions";
- 2.5. report on securities pursuant to Appendix No. 7 approved by Decree of the Governor of Eesti Pank of 1 April 1997 No. 10 "Additional reports of credit institutions";
- 2.6. report on contingent liabilities pursuant to the Appendix to Decree of the Governor of Eesti Pank of 9 February 1999 No. 3 "Annual reports of credit institutions of the Republic of Estonia for 1998".

Reports specified in Clauses 2.1 to 2.6 shall be submitted as of the end of a quarter by the tenth banking day upon the end of the accounting quarter. The report shall be forwarded to the Banking Statistics and Analysis Department of Eesti Pank electronically in the formats set forth by appendices to respective Decrees of the Governor of Eesti Pank.

On preparing reports, it should be considered that economic transactions performed in the course of liquidation shall be presented in reports pursuant to protocol resolution No. 10 - Clause 3 C of the session of the Accounting Board of the Republic of Estonia held on 11 July 1995.

3. Liquidation report which shall indicate:
 - 3.1. information on the date and place of publication of the notice specified in Article 375(1) of the Commercial Code (hereinafter referred to as the CC);
 - 3.2. information on transactions performed by the liquidators with the assets of the credit institution;
 - 3.3. information on the performance of the obligations of the credit institution, specifying the name of each creditor, amount of the creditor's claim, time of occurring of such claim as well as basis or reason thereof, term and manner of settling the claim;
 - 3.4. information on the assets of the credit institution upon the performance of the obligations to creditors;

- 3.5. information on the liquidation expenses where the class, amount, basis or reason of incurring, time of incurring of each liquidation expense separately shall be specified;
- 3.6. auditor's statement in respect of the inspection of the final balance sheet and distribution scheme;
- 3.7. information on the amount of payment made to each shareholder, date and place of making the payment or depositing the money;
- 3.8. information on the registrar;
- 3.9. information on the documents and archives delivered to the registrar;
- 3.10. confirmation of liquidators to the fact that the final balance sheet or assets distribution plan are not contested in court or that the claim has been rejected and that claims of all creditors have been settled or funds required for this purpose have been deposited.

The following documents shall form integral appendices to the liquidation report: the final balance sheet and distribution scheme specified in Article 378(1) of the CC prepared pursuant to protocol resolution No. 10 - Clause 3 C of the session of the Accounting Board of the Republic of Estonia held on 11 July 1995, and the auditor's statement in respect of the inspection of the final balance sheet and assets distribution plan.

The report shall be supplemented with copies of any court order related to the credit institution issued in the course of the liquidation proceeding of the credit institution.

The liquidation report including appendices thereto shall be submitted to the Banking Supervision Department in writing at least five days prior to the date of submitting the application on the deletion of the credit institution from the commercial register provided by law.