



**TWENTY-FIRST REPORT (PURSUANT TO SECTION 73a FW) CONCERNING THE FINDINGS OF THE BANKRUPTCY TRUSTEES DURING THE TWENTY-FIRST REPORTING PERIOD IN THE BANKRUPTCY OF ROYAL IMTECH N.V.**

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District Court : Rotterdam

Delegated judge : W.J. Roos-van Toor and F. Damsteegt

Insolvency number : F.10/15/577

Bankruptcy trustees : P.J. Peters J.G. Princen  
AKD N.V. DVDW Advocaten  
Wilhelminakade 1 Weena 690  
3072 AP Rotterdam 3012 CN Rotterdam

Date of appointment of the proposed  
Bankruptcy trustees : 5 August 2015

Date on which moratorium  
was granted : 11 August 2015

Date of the bankruptcy order : 13 August 2015

Activities of the company : Royal Imtech N.V. is the principal holding company of the Imtech group, being a European technical service provider in the field of electrical engineering, ICT and machine construction. Imtech has a strong position in the following sectors:



construction and industry, 'green' technology and sustainability, infrastructure and telecommunication, transport and navigation.

Turnover (2014)	:	EUR 3,922,300,000.
Average number of staff	:	64 (Royal Imtech N.V.)
<i>Reporting period</i>	:	<i>1 January 2021 up to and including 31 March 2021</i>
Previous reports:	:	1st report dated 14 September 2015 2nd report dated 9 December 2015 3rd report dated 9 March 2016 4th report dated 1 July 2016 5th report dated 19 December 2016 6th report dated 19 June 2017 7th report dated 19 September 2017 8th report dated 19 December 2017 9th report dated 16 March 2018 10th report dated 14 June 2018 11 <sup>th</sup> report dated 14 September 2018 12th report dated 14 December 2018 13th report dated 21 March 2019 14th report dated 20 June 2019 15th report dated 20 September 2019 16th report dated 20 December 2019 17th report dated 19 March 2020 18th report dated 19 June 2020 19th report dated 18 September 2020 <i>20th report dated 4 January 2021</i>



Hours spent during reporting period	:	<i>DVDW: 884 hours and 36 minutes</i> <i>(1 December 2020 up to and including 28 February 2021)</i> <i>AKD: 960 hours and 18 minutes</i> <i>(1 December 2020 up to and including 28 February 2021)</i>
Hours spent in Total	:	<i>DVDW: 23,698 hours and 24 minutes</i> <i>(13 August 2015 up to and including 28 February 2021)</i> <i>AKD: 20,865 hours and 18 minutes</i> <i>(13 August 2015 up to and including 28 February 2021)</i>
Appendices	:	Interim Financial Report (not published); Lists of creditors (not published); and Copy of the Assets (not published).

*Rotterdam, 6 April 2021*

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*Changes with respect to the previous reports are shown in italics. In order to improve the readability of the ever expanding report, the headers of subjects were maintained, but reference is each time made to a previous report in case of subjects in respect of which there is nothing to report. Some subjects state the current state of affairs while the passages from old reports have been removed. The proceedings that were conducted and those that are still ongoing were relocated to a separate chapter 7.7 for the sake of readability.*

## PRELIMINARY REMARKS

*This is the Twenty-first report in the bankruptcy of Royal Imtech N.V. (hereinafter: “Royal Imtech”).*

This report is based on information the Bankruptcy trustees have received from the company and third parties. The Bankruptcy trustees stress that the information in this report is the subject of further investigation. At a later stage it may turn out that this information must be adjusted. Therefore, no statements can yet be made about the completeness and accuracy of the details included in this report.

In line with the ruling of the Supreme Court dated 21 January 2005 (JOR 2005/104), it is pointed out that this report does not intend to account for the status of the liquidation assets or to provide complete insight. Individual creditors cannot derive any rights from this report.

This report and the subsequent reports will be published in Dutch and – albeit with some delay – in English. The Dutch version prevails.

The bankruptcy reports can be found on [www.rechtspraak.nl](http://www.rechtspraak.nl).

The Bankruptcy trustees furthermore had a separate website developed for the bankruptcies of the Imtech companies; [www.faillissementimtech.nl](http://www.faillissementimtech.nl). On this website the Bankruptcy trustees will publish all reports in the Dutch and English language as well as further notices in the bankruptcies of the Imtech companies.

### *Twenty-first report*

*This paragraph provides a summary of the developments in the reporting period from 1 January 2021 up to and including 31 March 2021.*

The work of the Bankruptcy trustees of Royal Imtech during this period can be briefly divided into 6 main activities:

1. Continuation of the investigation into the causes;
2. Hearing before the Accountancy Division;
3. Investigation into the provision of security that might be fraudulent towards creditors;
4. Appeal disciplinary complaint regarding KPMG for 2011;

5. Proceedings against De Brauw Blackstone Westbroek N.V. in connection with payments of advance and other invoices that were fraudulent towards creditors / unlawful;
6. Disciplinary complaint proceedings against 4 lawyers of De Brauw Blackstone Westbroek N.V. (hereinafter also: DBBW);

Re 1. Continuation of the investigation into the causes

The Bankruptcy trustees continued the investigation into the causes and the regularity audits, including the investigation into directors' and officers' liability investigation and the investigation into the provision of security as referred to in paragraph 5.3. During the previous period, the directors and supervisory directors as from 2013 were provided with an expert report concerning the financial information and were requested to provide a response to this. The directors responded, the response from the supervisory directors was ultimately received by the middle of December 2020. The Bankruptcy trustees will assess these responses.

Re 2. Continuation disciplinary complaints against KPMG

*The Accountancy Division delivered a decision on 15 January 2021. All complaints regarding the audit performed as from 30 June 2012 against the auditors and the Engagement Quality Reviewer were rejected. The Bankruptcy trustees only filed an appeal against the auditor. The Accountancy Division also delivered a decision on 15 January 2021 regarding the audit performed in respect of all of 2012. The main complaints regarding goodwill, going concern statements and the scope of the write-offs were allowed against 1 of the auditors and the Engagement Quality Reviewer. All of these 3 auditors lodged an appeal. Subsequently, the Bankruptcy trustees did so as well. The parties are required to submit their Statement of Appeal to the CBB on 30 April 2021.*

Re 3. Investigation into the provision of security that might be fraudulent towards creditors;

The investigation into the provision of security that might be fraudulent towards creditors and repayments to financiers of Royal Imtech continues. The Bankruptcy trustees engaged external experts in the investigation of information that was

provided to financiers and into the matters that were or should have been known to the financiers at relevant decision-making and other moments. This draft report was completed during the summer and presented to the directors and supervisory directors of Royal Imtech. After the responses from the directors and supervisory directors had been received, the draft report was presented to the financiers most closely involved for their comments on 18 December 2020. *Their response has not yet been received.*

Re 4. Appeal to the CBB concerning the disciplinary complaint against KPMG for 2011

The KPMG auditors lodged an appeal against the decision of the Accountancy Division. The Bankruptcy trustees did so as well. The auditors and the Bankruptcy trustees submitted their notices of appeal to CBB on 15 May 2020. The parties responded in writing to each other's documents on 1 September 2020. The KPMG auditors requested the CBB to allow a reply/rejoinder. The Bankruptcy trustees did not deem this necessary. The CBB allowed a reply as from the end of November 2020. The Bankruptcy trustees submitted their Rejoinder on 30 January 2021. *The CBB determined that the hearings will be held on 30 November 2021 and 2 December 2021.*

Re 5. Civil proceedings against DBBW regarding claims and payments in the last weeks before the bankruptcy.

The Bankruptcy trustees formulated a summons against DBBW for the purpose of claiming back EUR 4.5 million in payments that were received in a manner that was fraudulent to creditors / unlawful in respect of advance and other invoices during the last weeks before the bankruptcy. The summons for these civil proceedings was served on 30 April 2020. The case is pending as from 20 May 2020. The Statement of Defence was submitted on behalf of DBBW on 11 August 2020. The court held that the reply/rejoinder is allowed. *The Bankruptcy trustees submitted the Reply on 6 January 2021. DBBW will be required to submit the Rejoinder at the start of July 2021.*

Re 6. Disciplinary complaint proceedings against 4 De Brauw Blackstone Westbroek N.V. lawyers.

The Board of Discipline held on 30 November 2020 that the Bankruptcy trustees did not have a cause of action against the 4 lawyers. The Board of Discipline is of the opinion that the Bankruptcy trustees have no own interest in doing so, submission of disciplinary complaints is not covered by Section 68 FW (Bankruptcy Act) and the decisions in the civil proceedings, which have not yet been delivered, have to be awaited first before the Board will be able to decide on this in accordance with disciplinary law. The period for lodging an appeal is 30 days. The Bankruptcy trustees submitted a substantiated notice of appeal to the Disciplinary Appeals Tribunal in Amsterdam within that term. *The hearing date has since been set by the Disciplinary Appeals Tribunal for Friday 2 July 2021.*

## 1. Analysis

### 1.1. Management and organisation

See the seventh report.

### 1.2. Profit and loss

See the seventh report.

### 1.3. Shareholders' equity and Balance sheet total

See the seventh report.

## **FINANCIAL OVERVIEW ROYAL IMTECH N.V. (COMPANY)**

See the seventh report.

### 1.4. Pending legal proceedings

See chapter 7.7.

### 1.5. Insurance

See the eleventh report.

### **Fraud insurance**

#### Sixteenth report

Completed. See the fourteenth report.

### **POSI insurance**

#### Twelfth report

The investigation continues. Refer to the 11th report for a comprehensive explanation. ING, Rabobank and ABN Amro Bank N.V. submitted (contribution) claims to the Bankruptcy trustees insofar as these banks would have to pay any compensation to shareholders pursuant to the notices of liability from the VEB and Stichting Imtech Claim.

### **CAR insurance**

#### Twelfth report

Royal Imtech N.V. is the policy holder on a Master CAR insurance brokered by AON. There are currently still various claims under the CAR insurance left unsettled, for example because data or proceedings are still being awaited. The CAR insurers indicated that they wish to settle 5 claims for compensation under the CAR insurance involving a total amount of EUR 251,429.13. The Bankruptcy trustees reached agreement with the insured parties seeking recovery and AON concerning these 5 claims for compensation with respect to a contribution to the work performed by the Bankruptcy trustees in their capacity as estate administrators amounting to 10%, namely EUR 25,142.91 (excluding VAT).

#### Thirteenth report

Royal Imtech N.V. is the policy holder on a Master CAR insurance brokered by AON. There are currently still various claims under the CAR insurance left unsettled, for example because data or proceedings are still being awaited. As regards 5 claims for compensation under the CAR insurance for a total amount of EUR 251,429.13, the



Bankruptcy trustees reached agreement with the insured parties seeking recovery and AON concerning a contribution to the work performed by the Bankruptcy trustees in their capacity as estate administrators amounting to 10%, namely EUR 25,142.91 (excluding VAT).”

#### Fourteenth report

Several claims against Imtech companies were settled by AON during this reporting period, which led to a total payment to the Bankruptcy trustees in their capacity as estate administrators for work done of EUR 26,792.93 (exclusive of VAT).

#### Fifteenth report

The amount of EUR 25,142.91 (excluding VAT) was received in the liquidation account. There are currently 2 other matters pending via the insurance intermediary in which connection the parties exchange proposals.

#### Sixteenth report

During this reporting period, the Bankruptcy trustees and AON reached a settlement with respect to a claim related to losses insured under the CAR insurance, resulting in a contribution to the work performed by the Bankruptcy trustees of 10%, namely EUR 165,000 excluding VAT. As regards the other matter referred to in the fifteenth report, consultation between the Bankruptcy trustees and AON, the insurance broker, are still ongoing.

#### Twenty-first report

*As regards the aforementioned matter, an amount of EUR 165,000 was received instead of a total of EUR 227,133.*

*As regards the other matter referred to above, the CAR insurer concerned indicated to intermediary AON that the file was closed without payment.*

*AON informed the Bankruptcy trustees that at this time all claim files have been closed, with the exception of two personal injury files and a file that is being handled by the bankruptcy trustee of Imtech Building Services B.V.*

1.6. Lease

See previous reports.

1.7. Cause of bankruptcy

Under investigation.

Twelfth report

The Bankruptcy trustees' investigation continues. Refer to the 11th report for previous communications.

Thirteenth report

The investigation continues. Several draft reports regarding individual topics concerning developments that occurred in 2012 and 2013 were presented to several directors and to KPMG towards the end of December 2018 within the context of hearing both sides of the argument. The directors have until 31 March 2019 to provide a written response. Final meetings concerning this subject will be conducted with them thereafter. The Bankruptcy trustees will then continue the investigation into the events of 2013.

Fourteenth report

The notified directors provided a written response to most of the draft reports that were sent. These questions and answers were subsequently discussed during meetings with the relevant directors. The Bankruptcy trustees thus conclude their investigation into the causes and hearing both sides of the argument concerning the course of events in the Netherlands, Germany and Poland in 2012 and the first half of 2013 towards former directors Van der Bruggen and Gerner. The draft reports will now be presented to the members of the Supervisory Board in question. A draft report that could not be discussed sufficiently was presented again to the final directors with specific, written questions. They are again afforded a period of 3 months to answer these questions.



#### Fifteenth report

No substantive response has yet been provided in respect of the draft reports formulated by the Bankruptcy trustees that were submitted to former supervisory directors and the final directors.

#### Sixteenth report

Executive directors and the supervisory directors responded in writing to the draft reports during this reporting period. A supervisory director was interviewed as well.

#### Eighteenth report

The corona problems meant that physical interviews with directors and supervisory directors were impossible during the past reporting period. It is expected that some interviews will take place after the summer holidays.

#### Nineteenth report

The Bankruptcy trustees presented a report concerning the financial developments in 2013-2015 drawn up by external experts to the members of the Executive Board and the Supervisory Board as from 2013. The Bankruptcy trustees will conduct a physical interview about this with the directors and supervisory directors after their response has been received.

#### Twentieth report

The response from the supervisory directors was a long time coming. Their response will be studied during the coming reporting period and the investigation will be continued. As regards the period 2013-2015, the investigation now also takes place in connection with the investigation into fraudulent conduct in respect of creditors and the formulation of the Reply in the proceedings against DBBW.

#### Twenty-first report

*The aforementioned activities were continued during the reporting period.*



## 2. Staff

See previous reports.

## 3. Assets

### **Immovable properties**

See previous reports.

### **Operating assets**

See previous reports.

### **Inventories/work in progress**

See previous reports.

### **Other assets**

### 3.1. Description

#### **Participating interests**

Royal Imtech N.V. is also (sole) shareholder in a great many other (inactive) companies. During the past period the Bankruptcy trustees have started taking stock of all the participating interests and will attempt to liquidate these participating interests or nominate them for bankruptcy in the coming reporting period.

#### Third report

As regards the sales of Nordic Group, Marine Group, T&I Group, the division UK/Ireland, Imtech Spain, Imtech Benelux, Imtech Belgium Holding N.V., Imtech Toegangstechniek B.V., Imtech Industry International B.V. and Ventilex B.V., Imtech Building Services B.V., Imtech Industrial Services B.V., Paul Wagner & Fils S.A. and Imtech Polska reference is made to the first and second public reports concerning the

bankruptcy of Royal Imtech N.V. Furthermore, for the separate reports in the bankruptcies of Imtech Nederland B.V., Imtech Benelux Group B.V., Imtech Industrial Services B.V. and Imtech Building Services B.V., see the separate reports in the particular bankruptcies; the reports from these can be found, among other places, at [www.faillissementimtech.nl](http://www.faillissementimtech.nl). For information on the bankruptcy of Imtech UK Limited, see the website of the English administrators:

<http://www.pwc.co.uk/services/business-recovery/administrations/imtech.html>

## **Imtech Spain**

### Sixth report

At the time of the sale, the proceeds from the sale of the Spanish division of EUR 6,000,000 were deposited in an escrow account because both the Security Agent (due to a right of pledge created in respect of the shares in the period of undisclosed administration) and the assets of Royal Imtech claim the proceeds. The Security Agent removed the pledge upon the delivery of the shares by the Bankruptcy trustees subject to the condition that if the Bankruptcy trustees had not initiated proceedings against the Security Agent by 11 March 2017 at the latest the amount in escrow would be released to the Security Agent following deduction of the transaction costs. The proceeds were transferred to the Security Agent following the aforementioned term at the Security Agent's express request because the Bankruptcy trustees have not (yet) been able to initiate proceedings as a result of the ongoing investigations into the causes and have not yet been able to start on 2015 and the Security Agent has contested the extrajudicial annulment of the pledge by the Bankruptcy trustees. The transaction costs of the liquidation assets of EUR 254,459.74 were transferred into the liquidation account prior to the above. Incidentally, failing to initiate proceedings against the Security Agent within the aforementioned term does not mean according to the escrow agreement that the Bankruptcy trustees forfeited any rights.

### Seventh report

There are no developments during this reporting period.



### **Imtech Hungary**

*Completed.* See previous reports.

### **Imtech Romania**

*Completed.* See previous reports.

### **Imtech Poland**

#### Sixteenth report

In October 2015, the Bankruptcy trustees sold and transferred the shares in the capital of Imtech Poland. The Bankruptcy trustees enquired during this reporting period after the progress of various proceedings in which Imtech Poland was involved at the time of the sale. This may result in an entitlement to additional payment of the purchase price.

#### Seventeenth report

The Bankruptcy trustees engaged a Polish lawyer to obtain the necessary information and ensure compliance with the other party's contractual obligations.

#### Eighteenth report

The Bankruptcy trustees are attempting to establish their claim against the buyer with the assistance of a lawyer in Poland. Several sales took place in Poland that complicate insight into the course of events and the possible claim.

#### Twentieth report

The Bankruptcy trustees' Polish lawyer is working on the case.

### **Imtech SSC**

See previous reports. The bankruptcy was declared on 11 March 2016. Please refer to the separate report for that bankruptcy.

### **Imtech I B.V.**

These companies are not expected to yield any proceeds. As far as the Bankruptcy trustees are aware, these companies have neither any business operations nor any positive shareholders' equity.

#### Twenty-first report

*The bankruptcy of an Imtech I B.V. participation, Imtech Austria Anlangentechnik GmbH, has since ended. The investigation revealed that Imtech I B.V. has a claim against Imtech Capital B.V. As Imtech I B.V. is not bankrupt, the Bankruptcy trustees cannot submit this claim within the context of that bankruptcy.*

*As the indirect directors have decided to retire after the bankruptcy date, the Bankruptcy trustees are examining the possibility of having the company dissolved by means of a request to the Chamber of Commerce to exercise its power on the basis of Article 2:19a DCC.*

### **Imtech II B.V.**

These companies are not expected to yield any proceeds. As far as the Bankruptcy trustees are aware, these companies have neither any business operations nor any positive shareholders' equity.

#### Fifth report

This company does not hold any assets. It only has one creditor. Since there is no plurality of creditors, bankruptcy may not be declared for this company. The Bankruptcy trustees have decided to dissolve this company under Article 2:19(4) of the Dutch Civil Code by means of a turbo-liquidation.



#### Sixth report

This company has not yet been dissolved.

#### Thirteenth report

The initial plan was to dissolve the company by means of expedited liquidation. The Bankruptcy trustees are examining other possibilities of dissolving the company or having it dissolved, because the directors of Royal Imtech decided to resign following the bankruptcy date.

#### Sixteenth report

The Bankruptcy trustees requested the Chamber of Commerce to exercise its power pursuant to Article 2:19a DCC. The Chamber of Commerce has since registered Imtech II B.V. at the address of the Chamber of Commerce, Arnhem office, and informed us that this company will be nominated for ex officio dissolution by the Chamber of Commerce. A term cannot be provided for the time being.

#### **Imtech III B.V.**

Liquidation balance sheets dated June 2015 are available for this company. These indicate that Imtech III only has liabilities: Share capital of EUR 45K and an interest-free debt to a group company totalling EUR 45K. No assets are to be expected. The company is not in liquidation. This company will most likely be liquidated in the manner described in Article 2:19 (4) of the Dutch Civil Code.

#### Fifth report

This company does not hold any assets. It only has one creditor. Since there is no plurality of creditors, bankruptcy may not be declared for this company. The Bankruptcy trustees have decided to dissolve this company under Article 2:19(4) of the Dutch Civil Code. The shareholders' resolution for this purpose has now been adopted. Further settlement shall be reported on in the upcoming reporting period.





#### Sixth report

This company has not yet been dissolved.

#### Fourteenth report

The initial plan was to dissolve the company by means of expedited liquidation. The Bankruptcy trustees are examining other possibilities of dissolving the company or having it dissolved, because the directors of Royal Imtech decided to resign following the bankruptcy date.

#### Sixteenth report

The Bankruptcy trustees requested the Chamber of Commerce to exercise its power pursuant to Article 2:19a DCC. The Chamber of Commerce has since registered Imtech III B.V. at the address of the Chamber of Commerce, Arnhem office, and informed us that this company will be nominated for ex officio dissolution by the Chamber of Commerce. A term cannot be provided for the time being.

#### **Imtech Arbodienst B.V.**

This company has been in a state of bankruptcy since 1 March 2016. [Mr.] P.J. Peters has been appointed as bankruptcy trustee. Please refer to the separate report for that bankruptcy.

#### **Imtech International B.V.**

The company does not possess any assets. The company only has debts to group companies. The Bankruptcy trustees expect they will be able to dissolve this company.

#### Fifth report

This company does not hold any assets. It only has one creditor. Since there is no plurality of creditors, bankruptcy may not be declared for this company. The



Bankruptcy trustees have decided to dissolve this company under Article 2:19(4) of the Dutch Civil Code by means of a turbo-liquidation.

#### Sixth report

This company has not yet been dissolved.

#### Seventh report

Still ongoing.

#### Thirteenth report

The initial plan was to dissolve the company by means of expedited liquidation. The Bankruptcy trustees are examining other possibilities of dissolving the company or having it dissolved, because the directors of Royal Imtech decided to resign following the bankruptcy date.

#### Sixteenth report

The Bankruptcy trustees requested the Chamber of Commerce to exercise its power pursuant to Article 2:19a DCC. The Chamber of Commerce has since registered Imtech International B.V. at the address of the Chamber of Commerce, Arnhem office, and informed us that this company will be nominated for ex officio dissolution by the Chamber of Commerce. A term cannot be provided for the time being.

#### **Imtech Netherlands B.V.**

This company had ceased to be active even before the date on which Royal Imtech went bankrupt. It has intercompany receivables of approximately EUR 30 million (which were pledged as of 7 August 2015). The extent to which these receivables can be collected has been investigated; most of them cannot be collected because of the bankruptcies of the debtors. It appears that a few receivables of EUR 10 million, EUR 243K and EUR 1.433 million respectively can indeed be collected to some extent. This will be further investigated in the upcoming reporting period.

#### Sixth report

The Bankruptcy trustees are investigating whether collection of the receivables on the balance sheet of Imtech Netherlands B.V. is possible or as the case may be feasible.

#### Seventh report

Still ongoing.

#### Twentieth report

The Bankruptcy trustees investigated whether collection of the receivables in the Imtech Netherlands B.V. balance sheet is possible or as the case may be feasible. It has become clear that various receivables have been pledged to Lenders.

#### **Imtech Austria Anlagentechnik GmbH**

The bankruptcy of this company was declared in Austria on 28 August 2015. The Austrian bankruptcy trustee has been contacted in connection with the setoff of the cash pools, in which this company was also involved.

#### Nineteenth report

The Bankruptcy trustees have been informed that the bankruptcy has since been cancelled.

#### **Imtech Industry International B.V. and Ventilex B.V.**

#### Sixteenth report

The Bankruptcy trustees sold these shares to Techim B.V. on 25 August 2015. This included tax losses in which connection the assets became entitled to 25% of the tax benefit obtained as a result for the years 2015 up to and including 2019. This resulted for 2015 in an entitlement to a subsequent payment of EUR 94,310 , which amount was claimed by the assets during this reporting period. Payment has not yet been



received.

Twenty-first report

*The Bankruptcy trustees concluded a payment arrangement with Techim B.V. concerning payment of an amount of EUR 94,310 to the assets of Royal Imtech. By now, Techim B.V. has paid the entire amount.*

**Imtech Marine - division**

Sixteenth report

In August 2015, the Bankruptcy trustees sold the Marine division to Waterval B.V., which is a company in which the Lenders had united, which sold the shares on to Pon Holdings B.V. and Parcom Capital Management B.V. The abovementioned regulation concerning the passing on of tax losses and the possible subsequent payment to the assets in that connection. The Bankruptcy trustees requested Waterval B.V. to provide the figures for 2015 up to and including 2018 within the context of a possible subsequent purchase price to be received.

Seventeenth report

In October 2015, Waterval B.V. sold the Marine division to RH Marine Bidco B.V., which was formed at the time by Pon Holdings B.V. and Parcom Capital Management B.V. The obligation of a possible additional payment to the assets also lies with RH Marine Bidco B.V. as subsequent buyer. The purchase agreement between Waterval B.V. and RH Marine Bidco B.V. also concluded in this connection a third-party clause for the benefit of the assets. The Bankruptcy trustees will also notify RH Marina Bidco B.V.

**Imtech T&I Group B.V.**

Seventeenth report

The Bankruptcy trustees sold and transferred the shares in Imtech T&I Group B.V. to RCPT Beheer B.V. in August 2015. The abovementioned regulation concerning the passing on of tax losses and the possible subsequent payment to the assets in that

connection. The Bankruptcy trustees requested RCPT Beheer B.V. to provide the figures for 2015 up to and including 2018 within the context of a possible subsequent purchase price to be received.

**ROM ANLAGENBAU SRL i.L.**

*Completed, see previous reports.*

**Kiekens B.V.**

Based on the most recent financial documents (as of June 2015), the company has EUR 1,800 in liquid assets. The Kiekens bank account was closed by the bank on 3 September 2015, however, at Imtech's request; any balance will have been set off with or credited to an account of another Imtech company. The Bankruptcy trustees do not expect any proceeds; the company will presumably be dissolved via (turbo) liquidation.

Fifth report

This company does not hold any assets. It only has one creditor. Since there is no plurality of creditors, bankruptcy may not be declared for this company. The Bankruptcy trustees have decided to dissolve this company under Article 2:19(4) of the Dutch Civil Code by means of a turbo-liquidation.

Sixth report

This company has not yet been dissolved.

Seventh report

Still ongoing.

#### Thirteenth report

The initial plan was to dissolve the company by means of expedited liquidation. The Bankruptcy trustees are examining other possibilities of dissolving the company or having it dissolved, because the directors of Royal Imtech decided to resign following the bankruptcy date.

#### Seventeenth report

After approval had been obtained from the delegated judges on 22 November 2019, the Chamber of Commerce was requested on behalf of the Royal Imtech N.V. Bankruptcy trustees to exercise its power on the basis of Article 2:19a of the Dutch Civil Code against Kiekens B.V. Pursuant to the request, the Chamber of Commerce registered Kiekens B.V. at the address of the Chamber of Commerce, Arnhem office, and informed us that these companies will be recommended for ex officio dissolution by the Chamber of Commerce. They indicated in this connection that a term cannot be provided (as yet).

#### **Imtech Telecom B.V.**

This company cannot be liquidated at the moment because of appeal proceedings in which this company is indirectly involved. A judgement was handed down in the aforementioned proceedings recently, namely on 28 April 2016. After the period for taking an appeal to the Supreme Court has expired, the Bankruptcy trustees intend to proceed with the liquidation of this company. As far as the Bankruptcy trustees are aware, it does not have any business operations.

#### Fifth report

On 28 April 2016, judgement was declared in the proceedings to which Imtech Telecom is a party. The other party in these proceedings has indicated it will bring an appeal against the ruling of the court. Therefore the winding-up of this company shall only take place after the appeal has been settled.



### **Imtech SEA Limited**

This company is currently in liquidation; further investigation will be conducted into this.

#### Fifth report

This company is not in liquidation. Further investigation has revealed that Royal Imtech may receive benefits as a shareholder of this company. During the upcoming reporting period the Bankruptcy trustees will take additional measures to obtain these possible benefits for the estate.

#### Sixth report

The Bankruptcy trustees are in contact with the trust office that previously performed activities for Imtech SEA Limited. This has not yet yielded any results, i.e. payment to the assets. The Bankruptcy trustees are considering further steps.

#### Seventh report

Ongoing.

#### Twentieth report

It has since become clear that Imtech SEA Limited was cancelled/dissolved on 15 March 2019 by the Registrar of Companies or as the case may be the Hong Kong authorities. The assets of Imtech SEA Limited have been seized by the authorities. The company will first have to be restored before the assets can be received back. A company that has been dissolved as a result of cancellation by the Registrar of Companies may request restoration by means of a court order or administrative restoration. The Bankruptcy trustees are in contact with a foreign lawyer to set this in motion.



Twenty-first report

*The Bankruptcy trustees' lawyer abroad is working on the case.*

**Imtech Infra Data B.V.**

The company has no assets or other income. The company only has debts to a group company and it is therefore expected that the company can be liquidated in the short term.

Fifth report

This company does not hold any assets. There are multiple creditors and therefore a plurality of creditors. Because the company does not have any assets, it is not in the interest of the joint creditors to wind up this company. The Bankruptcy trustees have decided to dissolve this company under Article 2:19(4) of the Dutch Civil Code by means of a turbo-liquidation.

Sixth report

This company has not yet been dissolved.

Seventh report

Ongoing.

Thirteenth report

The initial plan was to dissolve the company by means of expedited liquidation. The Bankruptcy trustees are examining other possibilities of dissolving the company or having it dissolved, because the directors of Royal Imtech decided to resign following the bankruptcy date.





#### Fourteenth report

In connection with legal proceedings, the winding-up of this company shall not take place until after those proceedings have been completed.

#### **Fritz & Macziol (Schweiz) AG**

The company is already in liquidation. The Bankruptcy trustees have not (yet) had contact with the liquidator/bankruptcy trustee in Switzerland.

#### Fourteenth report

We have been in contact with the insolvency assistant who handles this bankruptcy. It was indicated that this bankruptcy is expected to continue for some time yet in connection with the finalisation of investigations and the collection of claims.

#### **Imtech Marine South East Asia Limited**

This company is currently in liquidation; further investigation will be conducted into this.

#### Sixth report

The investigation continues.

#### Seventh report

Ongoing.

#### Seventeenth report

Research shows that this company was liquidated and deleted from the ACRA (Accounting and Corporate Regulatory Authority) register in Singapore effective as from 5 June 2015.

### **Imtech Deutschland B.V.**

See previous reports: Imtech Deutschland B.V. was declared bankrupt by the District Court of The Hague on 21 February 2017. Reference is made to the liquidation report of Imtech Deutschland B.V

### **SevZap Project AG**

Still to be investigated

#### Sixth report

The investigation continues.

#### Seventh report

The investigation continues.

#### Sixteenth report

Investigation has revealed that on 21 October 2015 Imtech Deutschland GmbH & Co, KG submitted an application for the bankruptcy of SevZap Project AG, formerly Imtech Russia, to the State Arbitration Court of St. Petersburg and Leningrad Region. SevZap Project AG was acknowledged as being bankrupt, bankruptcy management was initiated, and a bankruptcy trustee was appointed on 25 January 2016. The bankruptcy proceedings have since commenced and have not yet been completed. On 3 July 2019, the bankruptcy management was again extended until 25 January 2020 at the bankruptcy trustee's request.

#### Twentieth report

The present liquidation report still includes SevZap as a Royal Imtech participation. This is also in line with the documents the Bankruptcy trustees found within the context of the bankruptcy. However, investigation by a Russian lawyer raised doubts about the question whether this information is still correct. According to Russian sources, Royal Imtech is listed as former shareholder. According to these sources,



Imtech Deutschland GmbH & Co KG holds 99% of the shares in SevZap Project AG and Chumakova Julia holds 1%. Incidentally, SevZap Project AG has been declared bankrupt. The Bankruptcy trustees will therefore not conduct a further investigation into this company.

Twenty-first report

*The investigation revealed that Imtech Capital B.V. has a claim against SevZap Project AG. The Bankruptcy trustees' lawyer in Russia provided advice concerning submission of this claim in the bankruptcy of SevZap and concerning the chances of success in that connection. The Bankruptcy trustees decided on the basis of this advice to take no further action as the probability of payment is considered to be zero.*

**Imtech Holding GmbH**

The Bankruptcy trustees have asked the German bankruptcy trustee for more information.

Fifth report

The Bankruptcy trustees have obtained further information from the German bankruptcy trustee about the state of Imtech Holding GmbH. This private company with limited liability incorporated under German law was declared provisionally bankrupt by the German court in Hamburg on 17 August 2016.

Twenty-first report

*The Bankruptcy trustees investigated the question whether Imtech Holding GmbH has debts to Dutch Imtech companies where they were appointed as trustee. The information available revealed that Imtech Capital B.V. has a claim against Imtech Holding GmbH. This claim will be submitted within the context of the bankruptcy of Imtech Holding GmbH.*

### **Other assets/claims**

Pre-bankruptcy:

Escrow account for Vinci transaction: approximately EUR 25 million.

See furthermore paragraph 7.7.

### **Post-bankruptcy**

Claims against advisors

De Brauw Blackstone Westbroek

#### Twelfth report

The investigation into the content and activities performed by DBBW has been completed for the time being. Refer to the 11th report for previous communications about this subject.

#### Thirteenth report

By letter sent towards the end of December 2018, the Bankruptcy trustees invoked actio pauliana in respect of the payments made by Royal Imtech N.V. to De Brauw Blackstone Westbroek on 24 July 2015 and thereafter for a total amount of EUR 4,517,000 and claimed this amount back. The law firm fully contested the arguments of the Bankruptcy trustees in a letter from its lawyer dated 23 January 2019.

#### Fourteenth report

The Bankruptcy trustees maintain their claim, but are awaiting developments in the disciplinary cases for the time being.

#### Sixteenth report

The preliminary relief proceedings hearing took place on 26 November 2019, which had been initiated against the Bankruptcy trustees by DBBW. DBBW claimed that the Bankruptcy trustees be ordered not to disclose information from De Brauw to third

parties subject to incremental penalty payments. On 12 December 2019, the Court in Preliminary Relief Proceedings delivered a judgment and rejected all 4 of De Brauw's claims, because it had not been demonstrated that the Bankruptcy trustees had disclosed De Brauw information to third parties. The directors and KPMG are not 'third parties' in this connection according to the Bankruptcy trustees and the court in preliminary relief proceedings due to their involvement in the case and the need for a proper investigation that considers both sides of the argument.

#### Seventeenth report

The Bankruptcy trustees formulated a summons for the purpose of claiming back EUR 4.5 million in invoices and advance invoices that were paid in a manner that was fraudulent to creditors / unlawful. This summons will be issued in the near future. The delegated judges have since granted the Bankruptcy trustees leave to do so.

#### Nineteenth report

The Bankruptcy trustees formulated a summons against DBBW for the purpose of claiming back EUR 4.5 million in payments that were received in a manner that was fraudulent to creditors / unlawful in respect of advance and other invoices during the last weeks before the bankruptcy. The summons for these civil proceedings was served on 30 April 2020. The case is pending as from 20 May 2020. The Statement of Defence was submitted on behalf of DBBW on 11 August 2020. The case is now being considered.

#### Twentieth report

The Bankruptcy trustees will submit the Rejoinder on 6 January 2021.

#### Twenty-first report

*The Bankruptcy trustees submitted the Reply on 6 January 2021. DBBW will be required to submit the Rejoinder at the start of July 2021.*

### **Claim against the assets of Imtech UK Group B.V.**

#### Twentieth report:

Earlier this year, the Royal Imtech Bankruptcy trustees submitted an unsecured claim to be paid from the liquidation assets within the context of the bankruptcy of Imtech UK Group B.V. in connection with the unlawful sale of the shares in Imtech Suir Engineering Limited after the bankruptcy date. Imtech UK Group B.V. acquired these shares in 2014 following a transfer of assets, activities and employees to a newly formed subsidiary without making any payment in this regard to Royal Imtech, while it follows from an expert investigation carried out on the instructions of the Bankruptcy trustees that the bankruptcy of the Royal Imtech group was already reasonably foreseeable at the time, which means that the joint creditors of Royal Imtech were prejudiced. The bankruptcy trustees of Imtech UK Group B.V. acted unlawfully after the bankruptcy date by selling these shares to a third party, even if they were not yet aware at the time of the manner in which the shares were acquired previously. After a notice of liability had been received from the assets of Royal Imtech and following two opinions from external experts and after consultation with the Delegated Judge in the bankruptcy of Imtech UK Group B.V., not being a Delegated Judge in the bankruptcy of Royal Imtech, the bankruptcy trustees of Imtech UK Group B.V. (in person, the same people as the Bankruptcy trustees of Royal Imtech) decided during this reporting period to pay an amount of EUR 14,037,169 to the assets of Royal Imtech as unsecured estate debt.

#### Twenty-first report

*In the meantime, the Security Agent's lawyer wrote to the Bankruptcy trustees of Royal Imtech and the Delegated Judges on two occasions concerning the alleged improper conduct of the Bankruptcy trustees of Royal Imtech N.V. in this connection, while these assets actually increased by more than EUR 14 million in size. A q.q. and pro se notice of liability is promised twice. The Bankruptcy trustees refuted the content of the letters in a substantiated manner.*

## **4. Debtors**

### 4.1. Scope debtors



See the seventh report.

4.2. Proceeds

See the seventh report.

4.3. Amounts paid to the Bankruptcy trustees in their capacity as estate administrators for work done

See the eleventh report.

**5. Bank/Security**

5.1. Bank claim(s):

Please refer to the seventh liquidation report for an explanation of the claims of the RCF Lenders. At the moment, the RCF Lenders have submitted claims amounting to EUR 359,581,526.92.

Nineteenth report

The USPP Noteholders submitted their claims. They claim the same security rights as the RCF Lenders. The total of the claims submitted by USPP Noteholders amounts to EUR 371,586,415.

Field Point Acquisitions S.à.r.l.	€ 16,343,111.00
Teachers Insurance and Annuity Association of America	€ 66,216,357.00
Field Point Acquisitions S.à.r.l.	€ 23,648,699.00
Field Point Acquisitions S.à.r.l.	€ 4,138,730.00
Cowen and Company, LLC (formerly CRT LLP)	€ 591,010.00
Massachusetts Mutual Life Insurance Company	€ 21,662,208.00
C.M. Life Insurance Company	€ 1,986,490.00
Western-Southern Life Assurance Company	€ 945,948.00
Columbus Life Insurance Company	€ 1,891,896.00
Columbus Life Insurance Company Closed Block	€ 945,948.00
National Integrity Life insurance Company Separate Account GPO	€ 1,891,896.00
Integrity Life Insurance Company	€ 1,891,896.00

National Integrity Life Insurance Company	€ 1,891,896.00
The Lafayette Life Insurance Company	€ 4,729,740.00
Sculptor Investments S.à.r.l.	€ 4,973,644.00
Field Point Acquisitions S.à.r.l.	€ 462,174.00
Deutsche Bank AG, London Branch	€ 2,079,453.00
Arvo Investment Holdings S.à.r.l.	€ 1,654,763.00
Credit Suisse Securities (Europe) Limited (as transferee of Credit Suisse International's Notes)	€ 826,005.00
Sculptor Investments S.à.r.l.	€ 4,140,954.00
Monarch Master Funding 2 (Luxembourg) S.à.r.l.	€ 4,136,907.00
Goldman Sachs International	€ 1,239,007.00
Cowen and Company, LLC (formerly CRT LLP)	€ 414,470.00
Deutsche Bank AG, London Branch	€ 4,830,520.00
Field Point Acquisitions S.à.r.l.	€ 24,015,059.00
Aviva Life & Pensions UK Limited (as transferee of Aviva Annuity UK Limited's Notes)	€ 72,921,263.00
The Prudential Insurance Company of America	€ 18,169,820.00
Prudential Retirement Insurance and Annuity Company	€ 30,683,296.00
The Prudential Insurance Company of America	€ 52,263,255.00

#### 5.2. Lease contracts

See the seventh liquidation report.

#### 5.3. Description of security

See the seventh liquidation report.

#### 5.4. Position as a secured creditor

See the seventh liquidation report.

#### 5.5. Amounts paid to the Bankruptcy trustees in their capacity as estate administrators for work done

See the seventh liquidation report.

#### 5.6. Retention of title

See the seventh liquidation report.



5.7. Rights of recovery

See the seventh liquidation report.

5.8. Rights of retention

See the seventh liquidation report.

**6. Restart/continuation**

**Continuation**

See the 11th report.

**Restart**

See the 11th report.

**7. Lawfulness**

7.1. Accounting obligation

See the 11th report.

7.2. Filing of financial statements

Second report

2011: adopted on 4 April 2012, filed on 5 April 2012, and withdrawn by Royal Imtech on 21 May 2013 .

2012: adopted 2 August 2013, filed 5 August 2013.

2013: adopted 22 May 2014, filed 23 May 2014.

2014: adopted 12 May 2015, filed on the same day.

The course of affairs concerning the preparation, adoption and approval of the financial statements is still the subject of further investigation.

7.3. Unqualified Audit Opinion:

**Disciplinary complaint concerning the 2011 audit**

Twelfth report

Refer to the 11th report for previous communications. An oral hearing within the context of these proceedings was held before the Accountancy Division on 3 December 2018. The arguments merely concerned the admissibility of the disciplinary complaints on the part of the Bankruptcy trustees of Royal Imtech et al. The auditors involved dispute that the Bankruptcy trustees have a cause of action in view of a settlement agreement concluded between Royal Imtech N.V. and KPMG in October 2014. The Accountancy Division decides on admissibility towards the middle of January 2019. If they are found to be admissible, the disciplinary complaints regarding the 2011 audit and the audit of the semi-annual figures for 2012 and the fraud letter (hereinafter: "2012 part 1") will be handled substantively.

Thirteenth report

The Accountancy Division declared the complaints submitted by the Bankruptcy trustees concerning the 2011 audit admissible in a judgment dated 21 January 2019.

The auditors involved have until 31 January 2019 at the latest to respond to the disciplinary complaints concerning 2012 part 1. These disciplinary complaints together with those concerning 2011 will be handled substantively on 2 and 3 September 2019.

Fourteenth report

The KPMG partners submitted the Rejoinder concerning the complaint regarding the audit of the 2012 semi-annual figures and the fraud letter by the end of May 2019. The Bankruptcy trustees must now send the additional exhibits intended for the oral

hearing of this disciplinary complaint on 3 September 2019 to the Accountancy Division in the short term.

The additional exhibits for the handling of the disciplinary complaint regarding the 2011 audit were also sent to the Accountancy Division during this reporting period. The disciplinary complaint regarding 2011 will be handled by the Accountancy Division on 2 September 2019.

#### Fifteenth report

The oral hearing of the disciplinary complaint concerning the audit activities relating to the financial statements for 2011 was held before the Accountancy Division on 2 September 2019. The Accountancy Division communicated shortly before the hearing that by way of an experiment and in view of the size of the file an additional, experienced auditor of a Big 4 firm had gone through the procedural documents and is involved in the disciplinary complaint against the two auditors as “second secretary” and as a judge in the disciplinary complaint against the person who carried out the Engagement Quality Reviewer who was involved in the handling of disciplinary complaints. The Accountancy Division expects that it will deliver a decision within a term of 3-6 months.

#### Sixteenth report

The Accountancy Division delivered a decision on 16 December 2019. This decision allowed 10 accusations on the part of the Bankruptcy trustees with respect to audit activities against the KPMG auditors involved and rejected 3 accusations. The following summary of the decision was published on Accountant.nl.

The auditors had:

- insufficient insight into Imtech’s risk control;
- responded insufficiently to the defects in the internal control identified by the auditor of Imtech Germany;
- should have asked more questions of the German auditor and should have analysed the figures reported by him for their usefulness for the consolidated financial statements;

- too quick and therefore accepted with too little professional criticism the findings of the auditor of the division, who did not see indications of fraud and did not wonder whether those findings indicated possible further irregularities and/or fraud;
- responded insufficiently to the findings of the auditor of Imtech Building Services, who established that a loss of 579 thousand euros had been transferred to the Oosterheem project from various other projects;
- should have recognised an indication of a possible material misstatement as a result of fraud in the cost shifts that were observed among the various divisions of the group;
- should have established that the activities of the German auditor with respect to the old debtors item were sufficient, and if necessary should have insisted on additional activities and additional documentation;
- wrongly failed to conduct a further investigation after the Imtech Poland auditor had reported as 'significant unresolved matter' that no bank statements had been received from three banks;
- failed to clarify in the audit file why they agreed to the valuation of the claims against old German debtors, while the valuation of the debtors item of Imtech Germany had been designated as a significant risk.

The disciplinary complaint against the Engagement Quality Reviewer was granted in most respects.

#### Seventeenth report

The KPMG auditors involved lodged an appeal against the decision of the Accountancy Division to the Trade and Industry Appeals Tribunal (CBb). Partly for this reason, the Bankruptcy trustees also lodged an appeal. The CBb has since granted the parties a postponement for submission of the Grounds for Appeal until 1 May 2020. The parties will then be afforded time to respond to each other's Grounds for Appeal.

#### Eighteenth report

Appeal to the CBB concerning the disciplinary complaint against KPMG for 2011  
The KPMG auditors lodged an appeal against the decision of the Accountancy

Division. The Bankruptcy trustees did so as well. The auditors and the Bankruptcy trustees submitted their notices of appeal to CBB on 15 May 2020. The parties are required to respond to each other's documents on 1 September 2020. CBB has not yet set a date for the hearing. The Bankruptcy trustees note for the record that they informed KPMG's lawyer expressly at the start of June 2020 that they are available for consultation about an amicable settlement. However, KPMG is not willing to conduct such negotiations. This means that the Bankruptcy trustees are also obliged to prepare disciplinary complaints concerning 2013 and 2014 as well as one or more civil proceedings against KPMG.

#### Nineteenth report

The auditors and the Bankruptcy trustees submitted their notices of appeal to CBB on 15 May 2020. The parties responded in writing to each other's documents on 1 September 2020. The KPMG auditors requested the CBB to allow a reply/rejoinder. The Bankruptcy trustees did not deem this necessary. The CBB allowed a reply/rejoinder as from the end of November 2020. The CBB expects that it will be possible to hold the hearing in Q2 2021.

#### Twentieth report

The KPMG auditors lodged an appeal against the decision of the Accountancy Division. The Bankruptcy trustees did so as well. The auditors and the Bankruptcy trustees submitted their notices of appeal to CBB on 15 May 2020. The parties responded in writing to each other's documents on 1 September 2020. The KPMG auditors requested the CBB to allow a reply/rejoinder. The Bankruptcy trustees did not deem this necessary. The CBB allowed a reply as from the end of November 2020. The Bankruptcy trustees are required to submit their Rejoinder on 30 January 2021. The CBB expects that it will be possible to hold the hearing in Q2 2021.

#### Twenty-first report

*The CBB determined that the hearings will be held on 30 November 2021 and 2 December 2021.*

### **New disciplinary complaint concerning the 2012 audit**

In June 2019, the Bankruptcy trustees submitted a third disciplinary complaint against the “lead partner” and the “engagement partner” with respect to the audit activities that were performed in connection with the 2012 financial statements of Royal Imtech N.V., consolidated and separate. The Bankruptcy trustees had themselves assisted by various external experts for this.

The course of events in 2012 was investigated again and comprehensively by KPMG following the Royal Imtech N.V. press release of 4 February 2013 in Poland, Germany and in the Netherlands. The 2012 financial statements were published with a 4-month delay on 18 June 2013. These financial statements were provided with an unqualified opinion by KPMG with an “emphasis of matter” concerning continuity. The financial statements for 2011 were withdrawn, with KPMG’s consent, shortly before the publication of the financial statements for 2012 (in May 2013). The financial statements for 2012 were drawn up following the forensic investigation into the course of events at Imtech in Poland, Germany and the Netherlands carried out by De Brauw Blackstone Westbroek. The 2012 financial statements were also relevant to the share issue involving an amount of EUR 500 million, which was already announced at the time of the audit activities, which issue should take place immediately after adoption of the 2012 financial statements on 2 August 2013.

The Bankruptcy trustees have already submitted disciplinary complaints against the relevant KPMG persons with respect to the audit activities performed in connection with the 2011 financial statements and also in connection with the activities performed within the context of the handling of the Promissory Note in the figures as on 30 June 2012.

The new disciplinary complaint concerning the audit of the 2012 financial statements including the developments that occurred after the balance sheet date in 2013 until the publication date does not concern subjects referred to in the disciplinary complaint concerning the figures as on 30 June 2012.

The complaints formulated at this time concern inter alia the manner in which the parties involved handled the cash pool debt of Imtech Poland to Imtech Germany of EUR 102 million as on 31 December 2012. The irrecoverable claim of Imtech Germany against Imtech Poland is not stated in the annual report or in the Report to Shareholders. The Bankruptcy trustees furthermore complain about the manner in which the parties involved audited the write-downs performed in 2013 with respect to

work in progress and claims against debtors of Imtech Poland and Imtech Germany amounting to a total of EUR 370 million. The Bankruptcy trustees illustrate this by means of the required write-downs at Schiffbau Dockbau that became known during the first share issue in July 2013 and by means of the write-downs concerning the Berlin airport project (BBI). The fact that these projects were not audited adequately means that the write-down of a total of EUR 370 million was too low and that very substantial write-downs were performed as yet in respect of these projects against the 2013 financial year.

The Bankruptcy trustees also complain about the manner in which the parties involved handled the capitalised goodwill in the Royal Imtech N.V. balance sheet and the failure to apply impairments as at the end of 2012 at the Nordics division and the Marine division. The Bankruptcy trustees establish that the cash-generating units were not determined at the correct level in accordance with IAS 36, but were determined by Royal Imtech N.V. and KPMG wrongly at division level.

The Bankruptcy trustees also complain about the manner in which the parties involved have performed the audit activities within the context of the assessment of the continuity of Royal Imtech N.V., in which connection the Bankruptcy trustees are of the opinion that the parties involved performed too few audit activities to be able to limit themselves to the going-concern qualification in the audit opinion. The Bankruptcy trustees also complain about the manner in which the off-balance sheet liabilities were investigated.

KPMG employed an Engagement Quality Reviewer (EQR) who was charged with auditing the audit activities performed by the lead partner and the engagement partner on the basis of the law (Section 14 WTA). For 2012 this concerned a different KPMG partner than for 2011. The Bankruptcy trustees are of the opinion that this EQR too did not perform the required activities with the required professional-critical attitude and did not act as may be expected of a reasonably competent auditor, acting reasonably. A disciplinary complaint was submitted against this partner as well.

The Accountancy Divisions has since determined that these persons have until 31 December 2019 to respond to the complaints.

#### Fifteenth report

The hearing concerning this disciplinary complaint regarding audit activities by the end of 2012 and the disciplinary complaint concerning the review activities on 30 June 2012 whose litigation had already been completed in full in writing and concerning the Fraud Letter ex COS 240 issued and withdrawn in 2012 will take place in the summer of 2020. The Accountancy Division has not yet determined a date for the hearing.

#### Sixteenth report

The Accountancy Division indicated that it aims for an oral hearing of the disciplinary complaints regarding half and all of 2012 at the start of September 2020. The Accountancy Division has not yet asked for the dates on which the parties are unable to attend.

#### Seventeenth report

The KPMG auditors and the Engagement Quality Reviewer (EQR) submitted their statements of defence after another more than 2 months' postponement on 28 February 2020 and on 5 March 2020 almost 9 months after submission of the disciplinary complaint by the Bankruptcy trustees. The statement of defence counts 280 pages plus almost 2000 pages in appendices. The Bankruptcy trustees have been granted a postponement of 6 weeks for the time being to draw up the Reply that may consist of at most 25 pages.

#### Eighteenth report

The statements of defence on the part of the auditors were submitted on 28 February and 5 March 2020. The Bankruptcy trustees submitted the Reply at the end of April. The auditors submitted the Rejoinder at the start of June. The disciplinary complaints regarding the 2012 semi-annual figures and the fraud letter and the 2012 annual figures will be handled by the Accountancy Division on 28 and 29 September 2020.



#### Nineteenth report

The disciplinary complaints regarding the 2012 semi-annual figures and the fraud letter and the 2012 annual figures will be handled by the Accountancy Division on 28 and 29 September 2020. It will be a physical hearing in Zwolle. In the event a party is unable to attend due to possible COVID-19 infection, the hearing will also be conducted digitally in part so that the parties are able to participate anyway.

#### Twentieth report

The hearing took place on 28 and 29 September 2020. The decisions are expected to be delivered in January 2021. The Bankruptcy trustees are awaiting these decisions before possibly drawing up and submitting complaints concerning the audits for 2013 and 2014. The Accountancy Division did not ask any questions at the hearing about the accusations made by the Bankruptcy trustees concerning the failure to apply impairments towards the end of 2012. The Bankruptcy trustees wish to study the decision of the Accountancy Division concerning 2012 first because this subject is also relevant with respect to 2013 and 2014.

#### Twenty-first report

*The Accountancy Division delivered a decision on 15 January 2021. All complaints regarding the audit performed as from 30 June 2012 against the auditors and the Engagement Quality Reviewer were rejected. The Bankruptcy trustees filed an appeal against the auditors. The Accountancy Division also delivered a decision on 15 January 2021 regarding the audit performed in respect of all of 2012. The main complaints regarding goodwill, going concern statements and the scope of the write-offs were allowed against 1 of the auditors and the Engagement Quality Reviewer. All of these 3 auditors lodged an appeal. Subsequently, the Bankruptcy trustees did so as well. The parties are required to submit their Statements of Appeal to the CBB on 30 April 2021.*

#### **NAI arbitration KPMG Bankruptcy trustees**

See the 18th report in this connection. The proceedings have been completed.



#### 7.4. Payment obligation in respect of shares

Under investigation. The most recent (rights) issue took place in October 2014.

#### 7.5. Mismanagement

Under investigation.

##### Second report

The Bankruptcy trustees have started a causal investigation into the actions of directors and supervisory directors in the period 2010 - 2015. This is not expected to be reported on in more detail until the investigation report from the Bankruptcy trustees has been finished.

##### Third report

No changes to the above for the time being; the investigations mentioned are still ongoing.

##### Sixth report

The aforementioned investigations continue.

##### Tenth report

The aforementioned investigations continue.

##### Eleventh report

The investigations continue.

The Bankruptcy trustees took note of the two different judgments dated 14 August 2018 of the Trade and Industry Appeals Tribunal (CBb) concerning the appeals of supervisor AFM in the cases against the former CEO (Van der Bruggen) and former

CFO (Gerner) of Royal Imtech N.V. (ECLI:NL:CBB:2018: 400 or ECLI:NL:CBB:2018:401).

The CBB held among other things that the parties involved effectively managed a breach of Section 5:58, first subsection, opening lines and under d, of the Financial Supervision Act. Stated succinctly, this section concerns the dissemination of information that sends an incorrect or misleading signal, while the party disseminating this information knows or should suspect within reason that the information is incorrect or misleading.

Similarly to the second series of disciplinary complaints submitted previously against KPMG accountants by the Bankruptcy trustees, the relevant information concerns among other things information related to the advance payment that had been presented of EUR 147.6 million to Imtech Poland before 30 June 2012 concerning the Polish AWW project.

#### Fourteenth report

The investigations continue.

#### Fifteenth report

The investigations continue. The Bankruptcy trustees have taken note of the judgment in preliminary relief proceedings of 9 September 2019 in which it was held that insurer CNA is obliged to pay the costs of conducting a defence on the part of the former supervisory directors so that they will respond to draft reports from the Bankruptcy trustees sent previously within the context of hearing both sides of the argument.

#### Sixteenth report

The investigations continue. They were delayed as a result of the 3 hearings in November 2019 in which the Bankruptcy trustees had to appear as defendants.

#### Nineteenth report

The Bankruptcy trustees continued the investigation into the causes and the regularity audits, including the investigation into directors' and officers' liability investigation and the investigation into the provision of security as referred to in paragraph 5.3. During this period, the directors and supervisory directors were provided with an expert report concerning the financial information as from 2013 and were requested to provide a response to this.

#### Twentieth report

The Bankruptcy trustees are monitoring the debate between the directors and supervisory directors on the one hand and the insurers on the other in connection with the 2013 D&O policies. The Bankruptcy trustees engaged an external expert to assess the Bankruptcy trustees' provisional conclusions concerning the period up to 2013. The Bankruptcy trustees sent letters interrupting the time limit. The investigation concerning the period 2013-2015 is being carried out in connection with the investigation into fraudulent conduct in respect of creditors.

#### Twenty-first report

*The activities were continued.*

### 7.6. Fraudulent conduct in respect of creditors

Under investigation.

#### Second report

The Bankruptcy trustees have started an investigation into the furnishing of security to the Lenders in the years 2013 - 2015.

The Bankruptcy trustees are not expected to issue a more detailed report on this until the full investigation into the establishment of security is concluded and has been



discussed with the Lenders.

#### Twelfth report

Refer to the 11th report for previous communications. The investigation into the security provided is still ongoing and is expected to take some time yet in view of its scope.

#### Thirteenth report

The investigation continues. The Bankruptcy trustees engaged external experts for this purpose as well.

#### Fourteenth report

The investigation continues. The Bankruptcy trustees expect to be consulting with the Security Agent (and the Lenders) regarding procedural arrangements in the coming period.

#### Fifteenth report

The investigation continues. The Bankruptcy trustees engaged external experts for this purpose as well. Consultation concerning procedural arrangements has not yet taken place.

#### Sixteenth report

This investigation was also delayed as a result of the 3 hearings in November 2019.

#### Eighteenth report

We expect the report from the external report in the coming reporting period.

#### Nineteenth report

The investigation into the provision of security that might be fraudulent towards creditors and repayments to financiers of Royal Imtech N.V. continues. The Bankruptcy trustees engaged external experts in the investigation of information that was provided to financiers and into the matters that were or should have been known to the financiers at relevant decision-making and other moments. It is expected that this investigation will be completed in the next reporting period.

#### Twentieth report

The Bankruptcy trustees engaged external experts to assess the Bankruptcy trustees' provisional findings.

#### Twenty-first report

*The draft report of the external experts was sent to the financiers' lawyer on 18 December 2020 requesting a substantive response. The financiers have not yet provided a substantive response. They are not willing either to confirm that and before which date they will provide a substantive response to the draft report.*

### 7.7. Proceedings

Refer to the 11th report for previous communications.

#### **Vinci (NAI proceedings)**

The Bankruptcy trustees refer to the content of the 9th liquidation report for the run-up of these proceedings.

#### Twentieth report

These arbitration proceedings ended by the middle of 2020. The Bankruptcy trustees refer to the 19th report for all relevant developments reported previously. There is still an ongoing dispute between the Bankruptcy trustees and the Lenders.

During the Vinci arbitration proceedings, the Lenders once again and repeatedly refused to contribute towards the costs of the lawyers and experts to be engaged by

the assets. As alleged pledgee, they are obliged towards the assets and the other creditors to keep the value of the collateral as high as possible in the event a third party disputes that there is a claim of a certain size at all against a third party that was allegedly pledged. The Lenders claimed at the same time a right of pledge in respect of an amount of EUR 25 million held in the escrow account that was established between Vinci and Royal Imtech before the bankruptcy date. The Bankruptcy trustees were summoned in that capacity by Vinci to appear in the arbitration proceedings, but the assets stood nothing to gain in the event the Lenders' right of pledge were to be valid. As a result of the Lenders' repeated refusal to appoint a lawyer or contribute otherwise to these proceedings, the assets were obliged to pay the very significant costs related to these arbitration proceedings.

In a letter dated 27 October 2020, the Bankruptcy trustees wrote to Waterval B.V. that they charge these costs of the assets and indirectly the other creditors due in part to forced management of another's affairs to the Lenders by paying these from the short-term preferential loan to a bankrupt estate of EUR 3 million. The Vinci arbitration proceedings involves an amount of EUR 883,163.45, exclusive of VAT.

The proceedings concerning the art collection involves a similar situation in which connection the assets were summoned and the Lenders claim a right of pledge in respect of the art collection and the proceeds. In this situation too, the Security Agent and the Lenders refused to appoint a lawyer and bear the lawyer's fees and the Bankruptcy trustees were forced to conduct a defence because they had been summoned and on the basis of the management of the affairs of the Security Agent and the Lenders which, although summoned, did not conduct a defence. These proceedings ended in a settlement between the Imtech Building Services bankruptcy trustee, the Royal Imtech Bankruptcy trustees and the Security Agent who acted on behalf of the Lenders. The lawyer's fees payable by the assets of EUR 15,653.87 exclusive of VAT were also charged to the Lenders in this connection and deducted from the short-term preferential loan to a bankrupt estate provided to Waterval B.V.

And finally, this line of conduct on the part of the Security Agent and the Lenders of not putting forward a defence, but nonetheless alleging a right of pledge in respect of all of the proceeds was also taken within the context of the Imtech Benelux Holding B.V. bankruptcy relating to the sale of shares in Imtech Belgium and the dispute with buyer Cordeel concerning the purchase price of EUR 4 million placed in escrow. The Bankruptcy trustees reached a settlement with Cordeel in that case amounting to

EUR 450,000, which amount was paid from the purchase price placed in escrow. The Lenders also claim in this connection a right of pledge in respect of the shares and the proceeds paid into the escrow account agreed after the bankruptcy date, but it is the case in this matter too that they did not engage or pay a lawyer to negotiate with Cordeel when legal proceedings loomed. The Bankruptcy trustees also charge the assets' lawyer's fees of EUR 24,779.79 exclusive of VAT to the Security Agent or as the case may be the Lenders by paying them from the short-term preferential loan to a bankrupt estate of EUR 3 million.

The short-term preferential loan to a bankrupt estate is EUR 2,076,402.89 after the setoff was carried out.

### **Bruscom**

#### Eleventh report

See the 10th liquidation report for the course of these proceedings.

The investigation into the possibility of recovering further losses from Bruscom is still ongoing.

### **Art collection**

#### Twentieth report

The amicable settlement between the Lenders, the Imtech Building Services bankruptcy trustee and the Royal Imtech Bankruptcy trustees has by now been signed by all parties. The Lenders claim a right of pledge in respect of the art collection and the proceeds kept in an escrow account after the art collection has been sold by the Bankruptcy trustees. Within the context of the settlement, the assets have since received reimbursement of expert costs incurred previously amounting to EUR 111,727.46. The Lenders wish to keep the remainder of EUR 244,734.20 in escrow and not release it to the assets following invocation of the annulment of the right of pledge for the benefit of the Lenders.

The legal proceedings were cancelled. The Bankruptcy trustees charge the lawyer's fees of EUR 15,653.87 exclusive of VAT in connection with drawing up the statement of defence and mediation to the Security Agent and Lenders who did not appear in



the proceedings by deducting this amount from the short-term preferential loan to a bankrupt estate.

#### Twenty-first report

*Completed substantively. Passages in the previous reports have now been removed for the purpose of shortening future reports.*

### **Disciplinary complaints against lawyers**

#### Thirteenth report

The Bankruptcy trustees submitted four complaints in the summer of 2018 to the (deputy) Dean of the Amsterdam Bar Association against De Brauw Blackstone Westbroek.

The lawyers involved submitted their statements of defence at the end of December 2018. The lawyers in question rejected the Bankruptcy trustees' complaints with reasons. The Bankruptcy trustees responded by the middle of March 2019. The lawyers involved will now be afforded the opportunity to rejoin. A member of the Supervisory Council of the Amsterdam Bar Association will then consider the complaints and provide advice in respect thereof to the Bankruptcy trustees. It will then be assessed whether the complaints will be handled orally before the Board of Discipline.

#### Fourteenth report

The Bankruptcy trustees hope to receive the Rejoinder in the four disciplinary cases by 24 June 2019 at the latest. These documents will then be studied. It will then be assessed per complaint whether advice from the Dean is to follow; what content it should have and whether the disciplinary complaints should be forwarded to the Board of Discipline.

#### Fifteenth report

The lawyers involved submitted the Statement of Rejoinder. The opinion of the Dean or the person designated for this purpose by the Dean intended for the Bankruptcy trustees is now being awaited.

#### Sixteenth report

The preliminary relief proceedings of 26 November 2019 were already referred to above. These preliminary relief proceedings were initiated by De Brauw following a letter from the deputy Dean from the end of October 2019. It stated that she had nevertheless read and assessed the 5 or 6 letters De Brauw only wanted to provide to the Deputy Dean and not to the Bankruptcy trustees. The Bankruptcy trustees objected all the more so as the deputy Dean indicated that these letters from De Brauw could assist their defence. The Bankruptcy trustees claimed surrender of these letters in preliminary relief proceedings in the counterclaim proceedings. At the hearing, the De Brauw declared in response that it does not intend to provide these letters from the Board of Discipline. The Bankruptcy trustees' lawyer informed the deputy Dean that the Bankruptcy trustees request the Bar Association to forward the 4 disciplinary complaints to the Board of Discipline. The Bankruptcy trustees indicated in this connection that within the context of establishing the truth they do not object to De Brauw also sending the aforementioned letters to the Board of Discipline provided that the Bankruptcy trustees also receive these letters simultaneously and in full.

#### Seventeenth report

The Amsterdam Bureau van de Orde forwarded the disciplinary complaints and the documents exchanged to the Board of Discipline (RvD). The Bankruptcy trustees have not yet heard from the RvD.

#### Eighteenth report

Corona results in delays here as well. The parties have since stated the dates on which they will not be able to attend a hearing in November or December 2020. During this reporting period, the Bankruptcy trustees furthermore issued a comprehensive notice of liability against DBBW concerning subjects that are also

addressed in the disciplinary complaints. This cannot be awaited any longer in view of the long duration of the disciplinary complaint procedure.

#### Nineteenth report

The Board of Discipline scheduled the oral hearing of the disciplinary complaints from the summer of 2018 and the Replies from the Bankruptcy trustees of March 2019 for 2 November 2020. *Unfortunately, the Board of Discipline communicated on 31 August 2020 that on that date the 4 disciplinary complaints will not be handled substantively after all, but only the issue of admissibility.* It is therefore expected that the substantive handling of the disciplinary complaints is likely to sustain a delay of one year. This means that the complaints will not be handled substantively by the Board of Discipline until 3 years after their submission. A substantive disciplinary judgment will take even longer.

#### Twentieth report

The Board of Discipline determined previously that the oral hearing of the 4 disciplinary complaints, which were submitted in the summer of 2018, will be held on 2 November 2020. The Board of Discipline communicated on 31 August 2020 that the substantive handling of the disciplinary complaints will not take place on 2 November 2020 after all. Initially, the Board of Discipline only wished to conduct the debate about the Bankruptcy trustees' cause of action. The Board of Discipline held on 30 November 2020 that the Bankruptcy trustees did not have a cause of action against the 4 lawyers. The Board of Discipline is of the opinion that the Bankruptcy trustees have no own interest in doing so, submission of disciplinary complaints is not covered by Section 68 FW (Bankruptcy Act) and the decisions in the civil proceedings, which do not exist with respect to these 4 lawyers, must be awaited first before the Board of Discipline is able to deliver a decision on the basis of disciplinary law. The period for lodging an appeal is 30 days. The Bankruptcy trustees assessed the possibilities of lodging a successful appeal and subsequently lodged a substantiated appeal to the Disciplinary Appeals Tribunal in Amsterdam towards the end of December 2020.

Twenty-first report

*The Statement of Defence was submitted on behalf of DBBW. The hearing before the Disciplinary Appeals Tribunal in Utrecht will take place on 21 July 2021.*

## **8. Creditors**

### 8.1. Costs of the liquidation

Since the date of the moratorium, the Bankruptcy trustees have engaged various advisors, for example in the context of the (digital) storage and analysis of the administration, as well as a communications firm, M&A advisors, etc. These costs are paid directly from the liquidation assets, being costs related to realisation of the bankruptcy.

Fourteenth report

Due to these costs and the related VAT, the assets have submitted an interim VAT return that was handled by the Tax and Customs Administration in accordance with the return.

Eighteenth report

The Bankruptcy trustees engaged several experts for individual topics and paid these costs. Another substantial turnover tax return was submitted and approved by the tax authorities.

### 8.2. Bankruptcy estate debts

Third report

Three claims have been submitted against the bankrupt company to date, in the amount of EUR 2,018,906.83. The claims from the UWV on grounds of sections 61-68 of the Unemployment Insurance Act (WW) represent by far the lion's share of that amount.



Fifth report

EUR 2,115,334.33 due to an additional UWV claim.

Sixth report

EUR not changed when compared with the 5th report

Eleventh report:

EUR 2,115,406.93 due to an additional accounts payable records claim.

8.3. Claims from the tax authorities

To date, the Tax and Customs Administration has submitted preferential claims in the amount of EUR 817,704.00.

Fourth report

EUR 14,960,145.00.

Fifth report

EUR 14,142,441.00.

Sixth report

EUR 14,960,145.00.

Twelfth report

The tax authorities informed the Bankruptcy trustees during the previous reporting period that they will settle their claim in part against a refund to the Royal Imtech tax entity amounting to EUR 582,783.00. The total claim submitted by the tax authorities therefore amounts at this time to EUR 14,377,362.00.



During this reporting period, the Bankruptcy trustees submitted the corporation tax returns for 2014 and 2015. The Tax and Customs Administration accepted the returns and determined as loss offsettable against tax for Royal Imtech N.V. an amount of EUR 309,782,000 as at the end of 2014 and an amount of EUR 86,697,000 for 2015.

#### Thirteenth report

On 17 January 2019, the Tax and Customs Administration submitted a claim for an amount of EUR 10,643,432.50 pursuant to Section 19 Collection of State Taxes Act 1990 and notice of liability pursuant to Section 43 of the Collection of State Taxes Act. This is a claim from the Tax and Customs Administration for the turnover tax not paid by the Imtech entities.

#### Eighteenth report

On 5 June 2020, the Tax and Customs Administration sent a decision concerning a Turnover Tax refund for an amount of EUR 1,078,954.

#### 8.4. UWV claims:

UWV has, to date, not submitted any claims (as yet). The Bankruptcy trustees expect that the UWV has yet to file substantial claims in this bankruptcy.

#### Third report

The UWV has since submitted various claims, including the claim against the bankrupt company in relation to the wage guarantee scheme.

#### Fourth report

EUR 644,938.26.



Fifth report

EUR 644,938.26 in preferential claims filed by the UWV and EUR 2,115,334.33 in estate claims.

Sixth report

EUR not changed when compared with the 5th report

8.5. Other preferential Creditors

Nineteenth report

Total in preferential claims submitted, with the exception of the tax authorities and the UWV: EUR 711,276.01

8.6. Number of unsecured creditors

The sold Imtech Marine division has submitted claims to Imtech Capital B.V. and the company in liquidation for a series of companies, which claims total approximately EUR 51 million, in connection with the settlement of the cash pools. These claims still have to be further investigated in the context of the settlement of the cash pools.

Third report

133

Twelfth report

156

Nineteenth report

159

### **Conditional creditors**

HSH Nordbank AG submitted a conditional unsecured claim of EUR 6,629,232.87 in connection with a 'parental company guarantee'.

#### 8.7. Amount unsecured creditors

##### Nineteenth report

Unsecured trade creditors: EUR 1,388,824,142.20

Contested unsecured creditors: EUR 3,165,824.26

(This does not yet include all unpaid creditors of the bankrupt Dutch Imtech companies in respect of which a 403 statement (based on Article 2:403 of the Dutch Civil Cod) was filed.)

#### 8.8. Expected manner of settlement: not yet known

### **Creditors' committee**

##### Twelfth report

Another meeting between the Bankruptcy trustees and the members of the creditors' committee was held on 13 November 2018. The next meeting with the creditors' committee will take place on 12 March 2019.

##### Thirteenth report

The Bankruptcy trustees obtained advice concerning a possible settlement with the fraud insurer and the German bankruptcy trustee, and the creditors' committee issued a positive opinion in respect thereof. Progress was discussed further on 12 March 2019. The next meeting will take place on 20 September 2019.



#### Fifteenth report

The Bankruptcy trustees requested an opinion and received a positive opinion concerning the settlement relating to the art sale with the bankruptcy trustee of Imtech Building Services. The meeting with the creditors' committee, which was scheduled for 20 September 2019, will take place on 3 October 2019.

#### Sixteenth report

The Bankruptcy trustees met with the creditors' committee on 3 October 2019. The creditors' committee issued a positive advice concerning the settlement between Imtech Hungary KFT and the German bankruptcy trustee that resulted in a remaining purchase price for the assets.

#### Seventeenth report

The creditors' meeting is scheduled for 26 March 2020 and will take place this time by telephone or be postponed due to the special circumstances. During this reporting period, the creditors' committee was requested once to provide advice for bringing proceedings.

#### Twentieth report

The creditors' committee meeting took place digitally on 6 October 2020. On 11 December 2020, the Bankruptcy trustees requested the advice of the creditors' committee concerning the lodging of an appeal in the disciplinary complaints procedure against 4 lawyers. The creditors' committee issued a positive opinion.

#### Twenty-first report

*Another digital creditors' committee meeting took place on 23 February 2021. The creditors' committee issued a positive opinion concerning the filing of an appeal against various KPMG auditors regarding the disciplinary complaint for half of 2012 and for all of 2012.*

### **Claims from former shareholders**

The Bankruptcy trustees point out to the shareholders who were shareholders of Imtech before 2013 that they may perhaps still be able to submit a claim to Stichting Schikkingsfonds Imtech because Fund 3 has not yet been paid. It is possible that Stichting Schikkingsfonds Imtech will take the position that claims from shareholders who were shareholders on 4 February 2013 will prescribe on 1 July 2018 in view of the publication of the Report to Shareholders on 18 June 2013 by Royal Imtech. This means that (former) shareholders of Royal Imtech N.V. may have an interest in submitting their claim to Stichting Schikkingsfonds Imtech as yet. Stichting Schikkingsfonds Imtech is not affiliated with the liquidation assets. The liquidation assets do have an interest in shareholders who claim compensation doing so as much as possible from Stichting Schikkingsfonds Imtech as this reduces Royal Imtech's debt burden to the extent shareholders have received or will receive payment from Stichting Schikkingsfonds. The Bankruptcy trustees (hereby) do not make any statement concerning the legal validity of any claims from shareholders nor about the question whether Stichting Schikkingsfonds Imtech is obliged to handle new claims from (former) shareholders of Royal Imtech N.V. Claims from (former) shareholders against Royal Imtech N.V. do not prescribe during the term of the bankruptcy and may be submitted for verification via [www.crediteurenlijst.nl](http://www.crediteurenlijst.nl) (under Royal Imtech N.V.).

### Fourteenth report

The Bankruptcy trustees have learned via the media that the lawyers of Stichting Imtech Claim have summoned the banks and the (former) directors and supervisory directors in connection with improper conduct. The Bankruptcy trustees are not involved in these proceedings. In theory, these claims compete with possible claims on the part of the Bankruptcy trustees against these parties because recovery will have to be sought against the same assets or rights under insurance policies. The Bankruptcy trustees furthermore consider it objectionable that this Foundation keeps 25% of the damages for the shareholders to be received and does not distribute this to the shareholders.

8.9. Provisional list total debt burden Royal Imtech N.V. et al.

Nineteenth report

Comments:

- The RCF Lenders claim submitted was only included in this list for Royal Imtech N.V., but other Imtech companies also committed themselves jointly and severally;
- There may be rounding differences. This list may deviate in details;
- Tax debts are included in connection with tax entities.
- No verification meeting was held in any of the abovementioned bankruptcies as yet.
- No rights can be derived from this provisional list.

	<u>Assets</u>	<u>Size of the debt</u>
<b>Royal Imtech (corporate)</b>	EUR 9,236,529.57	
<u>Assets</u>		EUR 2,115,406.93
<u>Preferential</u>		EUR 16,307,217.98
<u>Unsecured</u>		EUR 176,183,175.23
<u>Bank (RCF)</u>		EUR 359,581,526.92
<u>Conditional</u>		-
<u>Contested</u>		EUR 3,165,824.26
<u>Noteholders</u>		<i>EUR 371,586,415.00</i>
<u>Guarantees (Estimate)</u>		EUR 540,000,000.00
<u>Bilateral (Estimate)</u>		TBD



<b><u>Imtech Capital</u></b>	EUR 3,650,011.68	
<u>Preferential</u>		
<u>Unsecured</u>		EUR 74,772,798.58
<u>Conditional</u>		
<u>Contested</u>		

<b><u>Imtech Group B.V.</u></b>	-	
<u>Preferential</u>		EUR 817,704.00
<u>Unsecured</u>		EUR 14,724.10
<u>Conditional</u>		
<u>Contested</u>		

<b><u>Imtech Benelux Group B.V.</u></b>	EUR 2,199,135.93	
<u>Preferential</u>		-
<u>Unsecured</u>		EUR 36,843.15
<u>Conditional</u>		-
<u>Contested</u>		-

<b><u>Imtech Nederland</u></b>	EUR 2,088,274.64	
<u>Assets</u>		EUR 1,911,659.80
<u>Preferential</u>		EUR 597,638.42
<u>Unsecured</u>		EUR 16,452,409.79

<u>Conditional</u>		-
<u>Contested</u>		-
<b><u>Imtech Building Services</u></b>	EUR 15,687,961.04	
<u>Assets</u>		EUR 12,685,784.88
<u>Preferential</u>		EUR 11,586,321.00
<u>Unsecured</u>		EUR 40,077,556.00
<u>Conditional</u>		-
<u>Contested</u>		-
<b><u>Imtech Industrial Services</u></b>	EUR 11,323,495.99	
<u>Assets</u>		EUR 6,807,846.38
<u>Preferential</u>		EUR 4,075,860.00
<u>Unsecured</u>		EUR 2,833,802.46
<u>Conditional</u>		
<u>Contested</u>		
<b><u>Imtech Arbodienst (In Liquidation)</u></b>		
<u>Preferential</u>		
<u>Unsecured</u>		
<u>Conditional</u>		
<u>Contested</u>		
<b><u>Imtech Automation Solutions</u></b>	EUR 28,269.91	



<u>Assets</u>		EUR 32,717.85
<u>Preferential</u>		EUR 50,582.18
<u>Unsecured</u>		EUR 14,007.45
<u>Conditional</u>		
<u>Contested</u>		
<b><u>Imtech B.V.</u></b>	-	
<u>Assets</u>		EUR 105,968.47
<u>Preferential</u>		EUR 41,753.93
<u>Unsecured</u>		EUR 436,704.06
<u>Conditional</u>		
<u>Contested</u>		
<b><u>Imtech BPI B.V.</u></b>	-	
<u>Preferential</u>		EUR 76,154.34
<u>Unsecured</u>		EUR 44,185.82
<u>Conditional</u>		-
<u>Contested</u>		-
<b><u>Imtech Deutschland B.V.</u></b>	-	
<u>Preferential</u>		-
<u>Unsecured</u>		EUR 34,000.06
<u>Conditional</u>		-

<u>Contested</u>		-
<b><u>Imtech SSC B.V.</u></b>	EUR 62,846.40	
<u>Assets</u>		EUR 73,234.48
<u>Preferential</u>		EUR 57,699.09
<u>Unsecured</u>		EUR 25,173.62
<u>Conditional</u>		
<u>Contested</u>		
<b><u>Imtech UK Group B.V.</u></b>	EUR 14,251,993.96	
<u>Preferential</u>		-
<u>Unsecured</u>		-
<u>Conditional</u>		-
<u>Contested</u>		-
<b><u>Totals</u></b>	<b><u>EUR 58,528,519.12</u></b>	<b><u>EUR 1,642,602,281</u></b>
	-	-
<b><u>Estimated consolidated deficit</u></b>	-	<b><u>EUR 1,584,074,000</u></b>
<u>Possible additional claims</u>		
Claims in connection with claims issue (in connection with banks)		EUR 318,000,000.00
Claim in connection with annulment		EUR 182,100,000.00

sale pledged participations		
Claim in connection with annulment of IT sale		EUR 200,000,000.00
Claim in connection with annulment claims issue		EUR 185,000,000.00
Claim in connection with pledge difference (Vinci, art, etc.)		EUR 47,400,000.00

#### Thirteenth report

Approximately 20 USPP Noteholders submitted their individual claims jointly in March 2019. They still claim the rights of pledge that were declared void extrajudicially by the Bankruptcy trustees. It does not make an essential difference as regards the outstanding debts, because these claims were already estimated in the previous statement.

#### Sixteenth report

The Bankruptcy trustees will no longer publish an Interim Financial Report. The Bankruptcy trustees are of the opinion that the interest of the creditors demands that at this stage of the proceedings no exact insight is provided into the assets' financial position, because it has become clear to the Bankruptcy trustees that large parties against which the assets considers it has claims are attempting to obtain this insight for the purpose of determining their procedural and other strategy towards the assets.

#### Twentieth report

Although the Bankruptcy trustees no longer published a public, interim financial report as from the 16th report because mainly the debtors of the assets appeared to be coordinating their conduct towards steering towards a reduced size of the assets by means of their repeated requests, delaying the answering of questions and conducting extensive defences in court and by lodging an appeal, which meant that the interests of the creditors would be served better by not publishing the financial



developments in a comprehensive manner every quarter, the interim financial report was nevertheless uploaded with the 19th report by accident and became available digitally. FD wrote immediately: "The Imtech Bankruptcy trustees investigation in danger of breaking down due to a lack of funds". The Bankruptcy trustees note that this message, as well as previous messages in the media, is not correct. Incidentally, the Bankruptcy trustees will not refute all incorrect media coverage in their reporting or otherwise.

This immediate media attention and the anonymous sources presented in this connection did indicate why full publication of an interim financial report is not in the interest of the assets and its joint creditors.

It was decided in consultation with the Delegated Judge that the policy for the coming period is that the financial developments of the assets will be reported in outline in the report itself. This statement looks as follows:

*Status as from the 21<sup>st</sup> report:*

<i>Liquidation asset:</i>	<i>EUR 46,938,526</i>
<i>Salary Bankruptcy trustee firms</i>	<i>EUR 16,288,586</i>
<i>The costs of external experts/lawyers</i>	<i>EUR 11,266,527</i>
<i>Other liquidation costs</i>	<i>EUR 1,144,500</i>

*All amounts stated are inclusive of VAT.*

<i>Balance of the liquidation account 29 December 2020</i>	<i>EUR 18,238,911.</i>
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## **9. Other**

### 9.1. Period for winding up.

Unknown.

### 9.2. Permissions from delegated judges

In these bankruptcies, permission was obtained for the following acts by the Bankruptcy trustees:

- Termination of lease: as of the bankruptcy date
- Dismissal of employees: as of the bankruptcy date
- Sale of assets (including shares in subsidiaries): various dates
- Appointment of experts / art experts for valuations: various dates
- Appointment of financial and other experts to support the Bankruptcy trustees in the investigation into the causes: various dates
- Appointment of experts/financial experts for support during the actio pauliana investigation.
- Appointment of experts/financial experts for support during the Vinci arbitration regarding the sale of the IT division in 2014.
- Appointment of experts for submission of disciplinary complaints against lawyers

#### Twelfth report

The updated list is as follows:

- sale and/or liquidation of and/or bankruptcy petitions for other Imtech entities;
- investigation into the group's physical and digital data;
- investigation into the (financial) accounts;
- investigation into cash sweeps by banks in seven cash pools;
- investigation into the causes of the bankruptcy;
- investigation into assets;
- investigation into possibly fraudulent and unlawful transactions, withdrawals, group transactions and possible directors' and officers' liability or third-party liability;
- investigation into financing and security;
- investigation into irregularities in Poland and Germany that are already known and the settlement of insurance matters in that respect;
- investigation into the settlement of numerous claim files with insurers;
- making a list of creditors;
- discussion expiration of bank guarantees and expiration of Parent Company Guarantees;
- settlement of earn-out scheme for sale of Imtech Poland shares;
- disciplinary complaint proceedings against 3 persons responsible for the audit and EQR for the 2011 financial year;

Consultation with Hamm in his capacity as such and the Lenders concerning the division of the proceedings from the art collection.

Thirteenth report

The above list is unchanged.

Fourteenth report

Supplement the abovementioned points with:

- Disciplinary complaint procedure before the Accountancy Division against 2 persons responsible for the review of the 2012 semi-annual figures;
- Disciplinary complaint proceedings before the Accountancy Division against 3 persons responsible for the audit and EQR for the 2012 financial year;
- Disciplinary complaint proceedings against 4 DBBW lawyers;
- NAI arbitration proceedings initiated by KPMG against the Bankruptcy trustees concerning the consequences of a settlement agreement concluded before the bankruptcy.

Sixteenth report

Supplement the above list with:

- Approval to settle various CAR claims; and
- Approval of a settlement regarding the remaining purchase price of Imtech Hungary.

Seventeenth report

Supplement the above list with:

- Approval granted to issue a summons against DBBW
- Approval granted to engage a Polish lawyer

Eighteenth report

- Additional approvals were granted by the delegated judges for engaging external experts for individual topics.

Twentieth report

Additional leave was granted by the Delegated Judges for lodging an appeal in the disciplinary complaint against lawyers.

Twenty-first report

*Additional approvals were granted by the Delegated Judges for lodging an appeal in the disciplinary complaint proceedings against various KPMG auditors, both with respect to the disciplinary complaint regarding half of 2012 and the 2012 audit as a whole.*

9.3. Delisting of the shares of Royal Imtech N.V.

See the seventh report.

9.4. Determination of the bankruptcy trustee salaries and audit of the liquidation account

Twelfth report

In view of the scope and complexity of this bankruptcy, the District Court determines each month the provisional remuneration of the Bankruptcy trustees and their colleagues on the basis of a remuneration request submitted, specified and substantiated by the Bankruptcy trustees. This monthly advance amounts each time to approximately 90% of the remuneration requested. The District Court determines the remuneration definitively each year following advice from the delegated judges. The definitive determination took place up to and including 2017. Refer to the 11th report for previous communications about this subject.

Thirteenth report

Status unchanged.

#### Fourteenth report

The remunerations of the Bankruptcy trustees were determined definitively by the Court up to and including October 2018.

#### Eighteenth report

The court will plan a hearing in the coming reporting period for determining the remuneration for the period October 2018 up to and including June 2020.

#### Nineteenth report

The situation did not change during this reporting period.

#### Twentieth report

The salaries for the period from 1 November 2018 up to and including 30 June 2020 were determined by the court in December 2020.

Salary decisions generally concern the amount the courts allow a bankruptcy trustee to charge to the assets in connection with activities carried out by him/her and his/her colleagues during the settlement of a bankruptcy.

Based on such a salary decision determined by the court, the Bankruptcy trustees have since charged

EUR 13,236,670, exclusive of VAT, to the assets over a period of more than 5 years.

The assets have the right to deduct VAT.

This is approximately EUR 2.4 million, exclusive of VAT, per year for both firms jointly.

The Bankruptcy trustees furthermore paid EUR 9,801,002, exclusive of VAT, to the external experts in a period of more than 5 years.

These expert costs concern mainly the investigations carried out into (1) impairments not implemented, as well as (2) the knowledge of Imtech's financial condition the



financiers had in the period 2013-2015 and (3) the investigation into the audits carried out by KPMG as from the year 2011.

The other liquidation costs of EUR 1,077,180, inclusive of VAT, mainly concern the securing of data and keeping such data searchable.

*Twenty-first report*

*No changes during this reporting period.*

- 9.5. Submission of next report: the next report will be submitted and published three months from now.

*Rotterdam, 6 April 2021*

P.J. Peters and J.G. Princen, Bankruptcy trustees