

OFFICIAL ASSIGNEE
PRACTICE CIRCULAR NO. 1 OF 2018

INTRODUCTION

1. This Practice Circular sets out the administrative requirements for the Official Assignee's adjudication of Proofs of Debt which are filed by secured creditors.
2. This Practice Circular applies to security interests held by creditors in respect of mortgaged residential, commercial and industrial properties.

PROCEDURE FOR PROVING DEBTS

3. In the submission of a Proof of Debt, a secured creditor must provide the following information, which include:
 - (a) The total outstanding mortgage loan and the outstanding interest on the said loan from the commencement of the loan to the date of the bankruptcy order;
 - (b) The total outstanding mortgage loan and the interest payable by the bankrupt where the creditor has obtained the Official Assignee's written approval under section 76(4) of the Bankruptcy Act for an extension of time after the date of the bankruptcy order in respect of which the creditor would be entitled to further interest accrued on the loan; and
 - (c) The particulars of the security held by the creditor, the date when the security was given and the current market value of the security.

SUBMISSION OF SUPPORTING DOCUMENTS

4. A secured creditor filing a Proof of Debt against the bankruptcy estate must submit the following documents and information to the Official Assignee:
 - (a) A copy of the Mortgage Agreement/Instrument and Letter of Offer between the secured creditor and the borrower(s)/mortgagor(s) (whether the bankrupt is a/the borrower/mortgagor or a personal guarantor, or both);
 - (b) To state whether the mortgage is an "all-monies" type (also sometimes called an "open" mortgage) which secured the repayment of other loans and/or credit facilities, and to draw our attention to the specific clause in the Mortgage Agreement/Instrument which provides for an "all-monies mortgage";
 - (c) To state whether the secured creditor holds a first charge over the property under the mortgage, where there is more than one mortgagee/chargee who hold a security by way of a mortgage/charge over the property;
 - (d) A Statement of Account of the total outstanding loan and the details of the total interest accrued as at the date of the bankruptcy order or at the end of the period extended by the Official Assignee under s.76(4) of the Bankruptcy Act;
 - (e) An independent valuation report of the property which is the security under the mortgage (conducted not earlier than 3 months before the date of filing the Proof of Debt) or an independent estimated current market value;

- (f) The completion account for the sale/realisation of the property, if the property has been sold or realised or is pending completion of sale/realisation, and the secured creditor files a Proof of Debt in respect of a shortfall derived from the proceeds of the sale/realisation; and
- (g) A copy of the Guarantee or Deed of Indemnity, where the secured creditor files a Proof of Debt against a bankrupt in respect of their liability under a personal guarantee or indemnity granted by the bankrupt for the debts or liabilities of a company or any other third party, which are also secured on real or immovable property.

5. A secured creditor must also submit, together with his Proof of Debt, a Table of Information on the Secured Debt as shown in the template in Annex A.

ADJUDICATION OF CLAIM

6. A secured creditor must provide the Official Assignee with all relevant supporting documents and information to substantiate his or her claim. These documents must be provided at the time of filing of Proof of Debt via the Insolvency & Public Trustee's Office electronic services portal. The provision of documents will assist the Official Assignee in his decision to admit or reject the claim pursuant to rule 197 of the Bankruptcy Rules. It is in the interest of secured creditors to provide the Official Assignee with all relevant documents and information in support of their Proof of Debt as early as possible. A delay may lead to material document/information being unavailable later which would have an impact on the adjudication of the Proof of Debt and may be unfavourable to the creditor.

7. Where the Official Assignee has written to a secured creditor requesting the creditor to provide any material document or information which was not previously made available to the Official Assignee, the secured creditor will be required to furnish the document and/or information within 14 days from the date of the Official Assignee's request. In the event that the secured creditor does not provide the requested document/information within the said 14 days, the Proof of Debt may be adjudicated on the basis that there is no such document or information and the Official Assignee will proceed with the adjudication on such basis as he deems fit, which may result in the rejection of the Proof of Debt.

EFFECTIVE DATE FOR COMPLIANCE

8. This Practice Circular shall come into operation from 20 June 2018.

ENQUIRY

9. Please direct any queries regarding the provisions of this Practice Circular in writing to Contact Us @ OneMinLaw

Dated this 19th day of June 2018



TAN BOON HENG
OFFICIAL ASSIGNEE
SINGAPORE

Table of Information on Secured Debt

| | |
|--|-----------------------------|
| Security: [Property Address] | |
| Account No(s): | |
| 1) Principal, i.e. amount of loan disbursed or credit facility drawn down from date of commencement of the loan/facility to the date of the bankruptcy order | \$ |
| 2) Interest amount claimed from date of commencement of loan/facility to the date of the bankruptcy order | \$ |
| 3) Miscellaneous charges (e.g. late payment fees, administration fees etc.) claimed from date of commencement of loan/facility to date of the bankruptcy order | \$ |
| 4) Has extension of time been granted by the Official Assignee to realise the property under s76(4) BA? | Approved Period: [Dates] |
| - If so, please state the dates (i.e. commencement and end dates) of the extension period approved by the OA and the interest amount claimed from the day immediately after the date of the bankruptcy order to the end of the extended period | \$ |
| Note: | |
| <i>If the property has <u>not</u> been sold/realised at the time of the filing of the Proof of Debt, please fill up Section A.</i> | |
| <i>If the property <u>has been</u> sold/realised and the <u>claim filed is for the shortfall sum</u> derived from the sale/realisation of the property, please fill up Section B.</i> | |
| <u>Section A</u> | |
| 1) Current market value of the property (as at the date of filing the Proof of Debt) | \$ |
| 2) Does the secured creditor hold a first charge on the property? | Y / N |
| 3) Is the Mortgage an “all-monies” mortgage? | Y / N |
| - If so, please state the relevant clause number in the mortgage instrument and provide a copy of the mortgage instrument | Clause: |
| 4) Were the mortgage instalment payments serviced for any period of time after the date of the bankruptcy order or are they still being serviced today? | Y / N / Not applicable |
| - If so, please state the total loan amount repaid to date (as of the date of filing the Proof of Debt) and who has paid or has been paying the instalments | \$ Payer’s Name: |

Section B

- 1) Date of sale (completion date) of the property
- 2) Sale price of the property
- 3) Miscellaneous charges relating to the loan/facility secured on the property (e.g. administration fees, late payment charges, etc.) incurred from the date of the bankruptcy order to the completion date of sale of the property
- 4) Net sales proceeds received / to be received by the creditor (including fees for the grant and exercise of the option and other down-payments)

Date:

\$

\$

\$