

## The Insolvency Act 1986

Liquidator's Progress  
Report**S.192**Pursuant to section 192 of the  
Insolvency Act 1986

To the Registrar of Companies

For official use

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Company Number

01779190

Name of Company

(a) Insert full name of  
company

(a) Focus (DIY) Limited (in Creditors' Voluntary Liquidation)

(b) Insert full name(s) and  
address(es)

I/We, (b)

S Allport

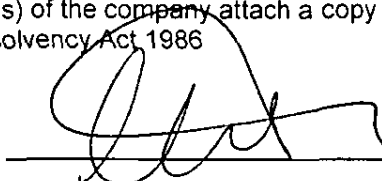
T A Jack

Ernst &amp; Young LLP

Ernst &amp; Young LLP

100 Barbirolli Square, Manchester,  
M2 3EY100 Barbirolli Square, Manchester,  
M2 3EYthe liquidator(s) of the company attach a copy of my/our Progress Report under section  
192 of the Insolvency Act 1986

Signed



Date

17 DECEMBER 2014.

Presenter's name,  
address and reference  
(if any)

For Official Use

Liquidation Section

Post Room

FRIDAY



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19/12/2014

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TO MEMBERS AND ALL KNOWN CREDITORS

17 December 2014

Ref: CR/SAA/CB/TV/R/PD/NW/M1135/PCF 011 1  
Direct line: 0161 333 2902  
Direct fax: 0161 333 3006

Please ask for Rhys Davenport

Dear Sir or Madam

## **Focus (DIY) Limited (in Creditors' Voluntary Liquidation) ('the Company')**

In accordance with the provisions of Paragraph 83 of Schedule B1 to the Insolvency Act 1986, on 26 October 2012 the Company moved from Administration to Creditors' Voluntary Liquidation ('CVL' or 'Liquidation') and Thomas Jack and I were appointed as Joint Liquidators

I now write to provide you with our report on the progress of the Liquidation for the period from 26 October 2013 to 25 October 2014 ('the Period'). This report should be read in conjunction with my previous report in the Liquidation dated 12 December 2013

In accordance with the provisions of the Insolvency Rules 1986 we are required to provide certain information about the Company and the Joint Liquidators. This information can be found at Appendix A of this report. A copy of our receipts and payments account for the period from 26 October 2012 to 25 October 2014 is enclosed at Appendix B

### **Background**

The Company was the sole trading company within a group operating in DIY and gardening retail, trading from 177 stores nationally

The Company entered into Administration on 5 May 2011, with Thomas Jack, Alan Hudson and myself appointed as Joint Administrators. The Administration closed on 26 October 2013, and the Joint Administrators have sought and received from the Company's creditors, discharge from liability of office

### **Summary of progress during the Period**

#### ***Business rate refunds***

During the Period business rates refunds of c £67k were recovered from rating authorities with the assistance of our agents, Jones Lang LaSalle Limited. The Company does not anticipate any further refunds in this regard

#### ***Prepayments and other assets***

During the Period, the Company sought and was refunded c £52k in respect of VAT in relation to a non-VAT elected property

The Company also received c £33k from the pre-appointment insurance claim handlers, in relation to pre-appointment monies held on the Company's behalf

Bank interest of c £27k has been received during the Period, total bank interest received in the Liquidation to 25 October 2014 is c £133k

### **Liabilities discharged in the Liquidation**

#### ***Professional fees***

Professional fees of c £25k were paid to the Company's agent during the Period in respect of business rates recoveries

#### ***Corporation tax***

Corporation tax of c £21k was paid during the Period in respect of the year ended 25 October 2013

#### ***Utilities payment***

A full and final payment of c £11k was made during the Period to a utility provider in the Administration

#### ***Legal fees***

Legal fees of c £6k have been paid during the Period relating to Liquidation matters

### **Details of assets which remain to be realised**

The Joint Liquidators are not aware of any material assets of the Company which remain to be realised

### **Outcome for creditors**

#### ***Secured creditors***

GMAC Commercial Finance Limited ('GMAC') and Bank of Scotland plc ('BoS') provided a revolving credit facility to the Company and the wider Focus group and are the Company's first-ranking secured lenders. The total amounts owing to them as at 5 May 2011 was £32.2m. GMAC and BoS have been repaid in full.

FLP3 Limited ('FLP3'), the Company's second-ranking secured creditor, had total amounts owing to it at the date of appointment of Joint Administrators of £214.7m (before the application of any relevant charges or fees). Distributions of £54m have been made to date in the Administration and Liquidation periods, of which £6.2m was distributed during the Period. The Joint Liquidators believe that total realisations available for distribution to FLP3 will be significantly less than the amount owed to them by the Company at the date of appointment of the Joint Administrators.

There is a further class of secured creditors to the Company in the form of mezzanine noteholders, whose security is subordinated to FLP3's secured debt. No funds will be available for distribution to the mezzanine debt holders under their security.

### **Preferential creditors**

Preferential creditor claims relating to employee arrears of pay and holiday totalling £1.5m were repaid in full during the Administration.

### **Non-preferential creditors**

The Prescribed Part is a proportion of floating charge assets set aside for non-preferential creditors pursuant to section 176A of the Insolvency Act 1986. The Prescribed Part applies to floating charges created on or after 15 September 2003.

On 4 June 2014 the Prescribed Part was distributed to non-preferential creditors who had proved their debt and been admitted for dividend purposes. The value of the Prescribed Part was the maximum of £600,000 before associated costs of dealing with the Prescribed Part.

Due to the number and value of non-preferential claims admitted for dividend purposes (3,647 claims were admitted for dividend purposes with a value of c. £444m), the Joint Liquidators made a first and final distribution under the Prescribed Part at a dividend rate of 0.07 pence in the pound.

### **Joint Liquidators' remuneration**

The Joint Liquidators' remuneration was fixed by the secured creditors and the preferential creditors of the Company, on the basis of time properly incurred by the Joint Liquidators and their team in attending to matters arising in the Liquidation.

To 25 October 2014 the Joint Liquidators have incurred total time costs of £899,034. An analysis of time costs and disbursements for the Company is attached at Appendix C to this report. At Appendix D there is a statement of the Joint Liquidators' policy in relation to charging time and disbursements.

### **Joint Liquidators' statement of disbursements incurred**

During the Liquidation we have incurred expenses totalling £9,800 plus VAT. The expenses can be summarised as follows:

Type of expense	Incurred (£)	Paid (£)	Outstanding (£)
Category 1 expenses	695.47	Nil	695.47
Category 2 expenses	9,104.79		9,104.79
Postage and printing		Nil	
<b>Total</b>	<b>9,800.26</b>	<b>Nil</b>	<b>9,800.26</b>

Category 2 disbursements comprise payments made by the office holders' firm which include elements of shared or overhead costs. Such disbursements are subject to approval from the secured and preferential creditors as if they were remuneration. It is our policy, in line with Statement of Insolvency Practice No. 9, to seek approval for this category of disbursement before they are drawn.

To date, the Joint Liquidators have not drawn fees or disbursements in the Liquidation.

**Creditors' rights to further information about, and challenge, remuneration and expenses**

The statutory provisions relating to remuneration are set out in Rule 4 127 to 4 131 of the Insolvency Act 1986. Further information is given in the Association of Business Recovery Professionals' publication 'A Creditors' Guide to Administrators' Fees', a copy of which may be accessed from the web site of the Insolvency Practitioners Association at <http://www.insolvency-practitioners.org.uk> (follow 'Regulation and Guidance' then 'Creditors' Guide to Fees'), or is available in hard copy upon request from the Joint Liquidators.

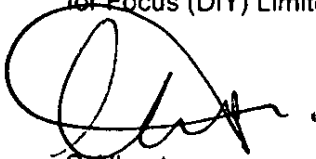
In certain circumstances, creditors are entitled to request further information about our remuneration or expenses, or to apply to court if creditors consider the costs to be excessive. Further information is provided at Appendix E.

**Summary of future actions**

It is proposed that the case will be closed and the Company moved to dissolution within the next 12 months. I will report to you again on the progress of the Liquidation in 12 months' time, or on the closure of the case, whichever is earlier.

I trust that this report is sufficient for your purposes, if you have any queries in this matter please contact my colleague Rhys Davenport on 0161 333 2902.

Yours faithfully  
for Focus (DIY) Limited (in Creditors' Voluntary Liquidation)



S Allport  
Joint Liquidator

- Enc    Appendix A – Statutory information  
      Appendix B – Joint Liquidators' abstract of receipts and payments account for the period from 26 October 2012 to 25 October 2014  
      Appendix C – Summary of Joint Liquidators' time-costs and disbursements for the period from 26 October 2012 to 25 October 2014  
      Appendix D – Joint Liquidators' policy for fees and disbursements  
      Appendix E – Further information for creditors regarding remuneration or disbursements

S Allport and T A Jack are licensed in the United Kingdom to act as insolvency practitioners by The Institute of Chartered Accountants in England and Wales.

We may collect, use, transfer, store or otherwise process (collectively, "Process") information that can be linked to specific individuals ("Personal Data"). We may Process Personal Data in various jurisdictions in accordance with applicable law and professional regulations including (without limitation) the Data Protection Act 1998.

**Focus (DIY) Limited (in Creditors' Voluntary Liquidation) ('the Company')**

**Information about the Company and the Joint Liquidators**

Registered office address of the Company	c/o Ernst & Young LLP, 100 Barbriolli Square, Manchester, M2 3EY
Registered number	01779190
Full names of the Joint Liquidators	Simon Allport and Thomas Andrew Jack
Joint Liquidators' address	Ernst & Young LLP 100 Barbirolli Square Manchester M2 3EY
Date of appointment of the Joint Liquidators	26 October 2012
Details of any changes of Liquidator	None

## Focus (DIY) Limited (in Creditors' Voluntary Liquidation)

Joint Liquidators' receipts and payments account for the period from 26 October 2012 to 25 October 2014

Note	Statement of Affairs estimated to realise	Receipts and payments account	£	£	£
			26 October 2012 to 25 October 2013	26 October 2013 to 25 October 2014	Total
1, 2		<b>Receipts</b>			
		<i>Non trading receipts</i>			
	12 537 342 44	Administration surplus	12 537 342 44		12 537 342 44
		Rates refund	168 847 06	66 531 20	235 378 26
		Bank interest	106 273 55	26 526 34	132 799 89
		Prepayments and other assets	4 838 18	85 033 24	89 871 42
		Miscellaneous receipts	49 597 97		49 597 97
		Debtors not subject to fixed charges	135 40	94 66	230 06
		<b>Total</b>	<b>12,867,034 60</b>	<b>178,185 44</b>	<b>13,045,220 04</b>
		<b>Total receipts</b>	<b>12,867,034 60</b>	<b>178,185 44</b>	<b>13,045 220 04</b>
1, 2		<b>Payments</b>			
		<i>Non trading payments</i>			
		Administrators fees	500 000 00		500 000 00
		Legal fees	226 479 08	6 408 65	232 887 73
		Prescribed Part costs		27 245 60	27 245 60
		Professional fees	-	25 435 52	25 435 52
		Corporation Tax payment		20 712 20	20 712 20
		Utilities payment		11 044 95	11 044 95
		Sundry expenses	3 347 64	-	3 347 64
		Storage charges	2 141 49	751 89	2 893 38
		Public notices	76 50		76 50
		Bank charges	8 94	3 90	12 84
		<b>Total</b>	<b>732,053 65</b>	<b>91,602 71</b>	<b>823,656 36</b>
		<i>Distributions</i>			
		Secured RCF creditors	2 600 000 00	6 200 000 00	8 800 000 00
3 4		Prescribed Part distribution		315 692 56	315 692 56
		<b>Total</b>	<b>2,600,000 00</b>	<b>6,515,692 56</b>	<b>9,115,692 56</b>
		<b>Total payments</b>	<b>3,332,053 65</b>	<b>6,607 295 27</b>	<b>9,939,348 92</b>
5		<b>Balances in hand</b>			<b>3,105,871 12</b>
		<b>Represented by</b>			
		Cash at bank			<b>3 105 871 12</b>
					<b>3,105,871 12</b>
<b>Notes</b>					
1	This receipts and payments account is shown net of VAT				
2	This receipts and payments account has been prepared on a cash basis and does not reflect debts not yet collected nor liabilities not yet paid				
3	Prescribed Part set at the maximum limit allowed per section 176A, Insolvency Act 1986				
4	The amount paid to unsecured creditors by virtue of the application of the Prescribed Part was £315 692 56				
5	Funds are held in interest bearing accounts apart from Prescribed Part monies which are held in an account that does not attract interest				
*	Statement of Affairs estimated to realise column is a requirement of Statement of Insolvency Practice 7. No Statement of Affairs is required in the Liquidation. Estimated to realise values have been taken at the date of appointment of the Joint Liquidators				



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## Appendix C

### Focus (DIY) Limited (in Creditors' Voluntary Liquidation)

Joint Liquidators' time costs for the period from 26 October 2012 to 25 October 2014

	Partner / Director	Assistant Director	Senior Executive	Executive	Analyst	Total hours	Time cost £	Average hourly rate £
Job acceptance & strategy	20	50				70	3,204	458
Immediate tasks	20	205				225	9,605	427
Bank & statutory reporting	195	255	493	873	-	1816	57,841	319
Property	400	568	110	736	1008	2822	81,229	288
Debtors	-	-	05			05	160	320
Other assets	-		40			40	1,280	320
Trading	-	-	145	45		190	7,545	397
Retention of title	40	205	50	215	292	802	19,914	248
Creditors	645	3315	378	4907	9712	18957	437,560	231
Investigations	40	60	100		-	200	7,886	394
Legal issues	50	410		240	70	770	28,033	338
Employee matters	10	195		524	308	1037	25,517	246
Accounting & administration	350	388	1419	1156	1427	4740	128,967	272
Statutory duties	290	205	12		170	677	25,274	373
VAT & taxation	194	123	218	137	560	1232	45,984	373
Other matters	75	350	20	40	51	536	21,035	392
<b>Total hours</b>	<b>2329</b>	<b>6329</b>	<b>2990</b>	<b>8873</b>	<b>1,3598</b>	<b>3,4119</b>		
<b>Time costs (£)</b>	<b>129,011</b>	<b>270,000</b>	<b>103,267</b>	<b>211,198</b>	<b>185,560</b>		<b>899,034</b>	
<b>Average hourly rate (£)</b>	<b>554</b>	<b>427</b>	<b>345</b>	<b>238</b>	<b>136</b>		<b>263</b>	
<b>£</b>								
Category 1 disbursements		69547						
Category 2 disbursements		910479						
<b>Total disbursements</b>		<b>9,80026</b>						

Current charge out rates	Grade	Effective rate from 1 July 2014	Effective rate from 1 July 2013	Effective rate from 1 July 2012
Restructuring	Partner	630-895	600 - 850	570 - 810
	Director	515-855	490 - 815	465 - 775
	Assistant Director	450-675	430 - 595	410 - 610
	Senior Executive	350-460	335 - 440	320 - 420
	Executive	250-340	195 - 325	230 - 310
	Analyst	140-310	135 - 295	130 - 280
	Intern	105	25 - 100	20 - 95
Assurance	Executive	-		255 - 380
Tax	Partner	1070-1290	925 - 1170	925 - 1115
	Director	905-1290	820 - 965	650 - 1115
	Assistant Director	735-1045	665 - 945	545 - 900
	Manager	620-775	565 - 705	420 - 670
	Executive	370-570	335 - 520	345 - 495
	Analyst	85-350	105 - 315	65 - 395
	Intern		30	25

## **Focus (DIY) Limited (in Creditors' Voluntary Liquidation)**

### **Joint Liquidators' policy on fees and disbursements**

#### **Joint Liquidators' charging policy for remuneration**

The secured and preferential creditors have determined that the Joint Liquidators' remuneration should be fixed on the basis of time properly spent by the Joint Liquidators and their staff in attending to matters arising in the Liquidation

The Joint Liquidators have engaged a manager and other staff to work on the cases. The work required is delegated to the most appropriate level of staff taking account of the nature of the work and the individual's experience. Additional assistance is provided by accounting and treasury executives dealing with the Company's bank accounts and statutory compliance diaries. Work carried out by all staff is subject to the overall supervision of the Joint Liquidators

All time spent by staff working directly on case-related matters is charged to a separate time code established for each case. Each member of staff has a specific hourly rate, which is subject to change over time. The average hourly rate for each category of staff over the period is shown below, as are the current hourly rates used. The current hourly rates may be higher than the average rates, if hourly rates have increased over the period covered by this report. Time is recorded in units of six minutes

#### **Joint Liquidators' charging policy for disbursements**

Statement of Insolvency Practice No. 9 (SIP9) published by R3 (The Association of Business Recovery Professionals) divides disbursements into two categories

Category 1 disbursements comprise payments made by the office holders' firm, which comprise specific expenditure relating to the administration of the insolvent's affairs and referable to payment to an independent third party. These disbursements can be paid from the insolvent's assets without approval. In line with SIP 9, it is our policy to disclose such disbursements drawn but not to seek approval for their payment. We are prepared to provide such additional information as required to support the disbursements drawn

Category 2 disbursements comprise payments made by the office holders' firm which include elements of shared or overhead costs. Such disbursements are subject to approval from the creditors as if they were remuneration. It is our policy, in line with SIP 9, to seek approval for this category of disbursement before they are drawn

**Creditors' rights to request further information about remuneration or disbursements or to challenge a liquidator's remuneration – Rules 4.49E and 4.131 of the Insolvency Rules 1986 (as amended)****4.49E Creditors' request for further information**

- 1) If
  - a) within the period mentioned in paragraph (2)
    - i a secured creditor, or
    - ii an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or
  - b) with the permission of the court upon an application made within the period mentioned in paragraph (2), any unsecured creditor,

makes a request in writing to the liquidator for further information about remuneration or expenses set out in a progress report in accordance with Rule 4 49B(1)(e) or (f) (including by virtue of Rule 4 49C(5)) or in a draft report under Rule 4 49D, the liquidator must, within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of matter in a draft report under Rule 4 49D or a progress report required by Rule 4 108 which (in either case) was previously included in a progress report not required by Rule 4 108
- 2) The period referred to in paragraph (1)(a) and (b) is
  - a) 7 business days of receipt of the progress report where it is required by Rule 4 108, and
  - b) 21 days of receipt of the report or draft report in any other case
- 3) The liquidator complies with this paragraph by either
  - a) providing all of the information asked for, or
  - b) so far as the liquidator considers that
    - i the time or cost of preparation of the information would be excessive, or
    - ii disclosure of the information would be prejudicial to the conduct of the liquidation or might reasonably be expected to lead to violence against any person, or
    - iii the liquidator is subject to an obligation of confidentiality in respect of the information,giving reasons for not providing all of the information
- 4) Any creditor, who need not be the same as the creditors who asked for the information, may apply to the court within 21 days of
  - a) the giving by the liquidator of reasons for not providing all of the information asked for, or
  - b) the expiry of the 14 days provided for in paragraph (1),and the court may make such order as it thinks just
- 5) Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks or, as the case may be, 4 weeks provided for in Rule 4 131(1B) or 4 148C(2) by such further period as the court thinks just
- 6) This Rule does not apply where the liquidator is the official receiver



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#### **4.131 Creditors' claim that remuneration is or other expenses are excessive**

- 1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4)

(1A) Application may be made on the grounds that

- (a) the remuneration charged by the liquidator,
- (b) the basis fixed for the liquidator's remuneration under Rule 4 127, or
- (c) expenses incurred by the liquidator,

is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph(b), inappropriate

(1B) The application must, subject to any order of the court under Rule 4 49E(5), be made no later than 8 weeks (or, in a case falling within Rule 4 108, 4 weeks) after receipt by the applicant of the progress report, or the draft report under Rule 4 49D, which first reports the charging of the Remuneration or the incurring of the expenses in question ("the relevant report")

- 2) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss the application but it shall not do so unless the applicant has had an opportunity to attend the court for a hearing, of which he has been given at least 5 business days' notice but which is without notice to any other party

If the application is not dismissed under this paragraph, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly

- 3) The applicant shall, at least 14 days before the hearing, send to the liquidator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it
- 4) If the court considers the application to be well-founded, it must make one or more of the following orders
  - a) an order reducing the amount of remuneration which the liquidator was entitled to charge,
  - b) an order fixing the basis of remuneration at a reduced rate or amount,
  - c) an order changing the basis of remuneration,
  - d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the liquidation,
  - e) an order that the liquidator or the liquidator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify,

and may make any other order that it thinks just, but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report

- 5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the liquidation

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