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Goldman**

Insolvency & Restructuring

## Factsheet: Interviews with Liquidators



### **What is the purpose of an interview with the liquidator?**

The main role of the liquidator is to realise the assets of a company for distribution to its creditors. Therefore, it is important the liquidator obtains as much information as possible regarding the property, affairs and dealings of the company.

The purpose of the interview is, therefore, for the liquidator to understand how the company operated and ask as many questions as they can in order to glean information in relation to the above to facilitate a possible return to creditors.

### **What does the interview consist of?**

The interview process begins with you being asked to fill in a preliminary information questionnaire. This will allow the insolvency practitioner to gain some initial information about the assets and liabilities of the company.

The interview itself should begin by the interviewer explaining the form the interview will take and approximately how long it will last. Within the interview the interviewer will be asking several questions concerning the company and its formation, promotion, business dealings, affairs and assets held in the company's name. The interviewer must always treat the interviewee with courtesy and should not conduct themselves oppressively.

The interview will likely be recorded so that a copy of the transcript can be obtained. An interview may be conducted by the liquidator's legal team and any interviewee should be provided with the ability to bring legal assistance or support with them (see more information on this below).

As an interviewee, you should, therefore, not feel coerced into signing any document with which you disagree, and you should be offered breaks and refreshments during the process.

### **Do I have a duty to the liquidator?**

Certain individuals have a duty to co-operate with the liquidator. Under section 235 of the Insolvency Act 1986 ("the Act") the following persons have a duty to co-operate and must give information concerning the company and its promotion, formation, business dealings, affairs, or property as the liquidator, at any time, may reasonably require:

- Those who are or have been officers of the company;
- Those who have taken part in the formation of the company at any time within one year before the date of the liquidation;
- Those who are in the employment of the company, or have been within that year and are in the insolvency practitioner's opinion capable of giving information which he requires; and
- If the company is being wound up, any person who has acted as administrator, administrative receiver, or liquidator of the company.

It is for the liquidator to explain that the person they wish to interview should be required to co-operate and do so pursuant to section 235 of the Act.

### **Do I have to attend the interview with the liquidator?**

In short, yes. If the liquidator is able to show that you are one of the people that section 235 of the Act applies to, you have a duty to co-operate with the liquidator and, therefore, must attend an interview, at any such time, as the liquidator may reasonably require.

### **Can I bring someone with me?**

An interviewee can bring a third party such as a solicitor, accountant, or friend. While the liquidator should generally be accepting of their presence, it is always worth checking this beforehand. It is important to note that the third party cannot be someone who is also a potential interviewee.

### **How can a solicitor help me at the interview?**

A solicitor accompanying you cannot answer questions on your behalf. They can however advise you beforehand on the type of enquiries that may be made, help to clarify questions that are asked or answers you give, and ensure that the interviewer doesn't stray into irrelevant areas, such as your personal finances.

**When will the interview take place?**

The interviews should be held as soon as possible after the insolvency of the company. However, it may be that the interview takes place later, upon the liquidator's request.

**Can I rearrange the interview date?**

If an alternative date is required for a genuine reason, the liquidator will likely agree to the request. However, the delay must be reasonable because time is of the essence in such matters.

Whilst the appointment was historically in person, the coronavirus pandemic has seen a shift to some video appointments. Therefore, it is likely more difficult to rearrange the interview without good reason. If a video appointment is used, the video call will likely be recorded.

**What if I fail to attend the interview?**

As you have a duty to co-operate with the liquidator, if you fail to attend the interview, without good reason, the liquidator is likely to make a second appointment and outline the possible consequences of continued non co-operation.

If you continue to be non co-operative, the liquidator could apply to the court for an order summoning you to appear before it for examination under oath.

Failing to co-operate means there is likely to be a cost consequence to you if any court process is instigated. In such circumstances, this could also lead to you being prosecuted, disqualified as a company director, or having a warrant issued for your arrest.

**What might I be required to do at the interview?**

If the liquidator requests an interview with you, you must:

- Give the liquidator your completed preliminary information questionnaire, if requested to do so and not already provided;
- Hand over all company books, records and paper work in your possession;
- Give full details of all the company's assets and liabilities; and
- Tell the liquidator if somebody else is holding assets or trading records.

**Can the interview be used to bring claims against me?**

A transcript will be produced of the interview and this may be exhibited to Court proceedings or used in support of claims.

**Where can I find more information?**

Whatever your situation, Isadore Goldman can help. Please contact one of our lawyers for your expert friendly consultation.

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## To find out how we can help, get in touch



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"He provides excellent, clear advice and is very knowledgeable and up to date on case law."

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