

## SUMMARY OF ACCOUNTS

### Explanatory Notes

- a. Realization – This should reflect the **gross sum of cash received** directly, exclusively and necessarily as a result of the bankruptcy process. The various items shown in this section should also correlate with the cash book receipts and the Report of the Trustee. In practice, this section would include most (if not all) types of receipts which are available or usable for subsequent “distribution” (e.g. bankrupt’s contributions, sale of investment and property, interest received, etc.). The “amount realized to date” shown under column (iii) in the Report of the Trustee on the position of bankruptcy should be fully reflected in this section. Please note that whether the receipts are subject to ad valorem fee chargeable under Item 9(b), Table B of the Bankruptcy (Fees and Percentages) Order (section 114 of the Bankruptcy Ordinance, Cap. 6) should not be a consideration for the purpose of this classification.
- b. Other receipts – Those items which do not fall to be classified as “realization” should be shown under this head. Examples are unclaimed dividends in accordance with section 128 of the Bankruptcy Ordinance, receipts subject to disputes, third party money and any other miscellaneous indirect receipts that **would not be available or usable for subsequent “distribution”**.
- c. Disbursements/Distribution/Other Payments – These should include cash payments which are made directly, exclusively and necessarily as a result of the bankruptcy process in accordance with section 37 of the Bankruptcy Ordinance. Examples of the various items that might appear under each of the three categories are listed below: -
  - (i) Disbursements – Actual payment incurred in realizing any of the assets of the bankrupt and any other types of expenses which are directly related to administration of the bankruptcy concerned. The nature of expenses should be clearly defined in the accounts.
  - (ii) Distribution – This section should include the payment of dividends to creditors.
  - (iii) Other payments – Those items which do not fall to be classified under the above two sub-headings, c(i) and c(ii), should be shown under this head. The nature of payment must be clearly stated. e.g transfer of unclaimed dividend to Bankruptcy Estate Account maintained by OR in accordance with section 128 of the Bankruptcy Ordinance.
- d. Cash balance at bank

When the Summary of Accounts has been selected for audit by OR, OR may request the trustee to arrange with bank for sending a bank confirmation to OR direct to support the correctness of the bank balance.

- e. Charging of AV fee

Outside Trustees have been informed of the following by letter issued on 12 June 2019 :

*“Pursuant to Item 9(b) of Table B of the Bankruptcy (Fees and Percentages) Order (Cap. 6C), on the aggregate amount of the assets realised and brought to the credit there shall be paid a scaling fees in respect of estates in which the Official Receiver is not acting as trustee when the trustee provides his accounts to the Official Receiver under s.93(1A) of the Bankruptcy Ordinance (“the AV fees”). It is noted that on some occasions after the trustee has realised a sum of money from the bankrupt's bank account, the trustee would make a refund of certain portion of the sum realised to the bankrupt as an*

*allowance to him.*

*The Official Receiver takes the view that as the fees to be charged under Item 9(b) of Table B of Cap. 6C is concerned with the aggregate amount of the assets realised and brought to credit, the AV fees should be calculated on the total amount recovered from the bank but not the net amount of bank balances recovered after making refund to the bankrupt. As such, when the trustee is prepared to make any refund to the bankrupt from the assets realised, the trustee is advised to ensure that sufficient sum from the bankruptcy estate is made available and set aside for the payment of the AV fees which is calculated on the total sum of assets realised.”*