

**Kaupthing Singer & Friedlander (Isle of Man) Limited – in Liquidation  
 (“KSFIOM” or “the Company”)**

**Joint Liquidators’ and Joint Deemed Official Receivers’ progress report to  
creditors for the period from 27 May 2009 to 9 July 2010**

## **Kaupthing Singer & Friedlander (Isle of Man) Limited – in Liquidation**

### **Highlights at 9 July 2010**

- **51.1p in the £ dividends paid to creditors**
- **£485.5m of assets recovered**
- **7,762 claims processed and admitted**
- **Estimated dividend outcome between 85.3p and 95.7p in the £**

# Kaupthing Singer & Friedlander (Isle of Man) Limited – in Liquidation

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# 1. Letter from the Joint Liquidators and Joint Deemed Official Receivers

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## Introduction

As advised in our letter to creditors dated 10 June 2009, Peter Spratt and Mike Simpson were appointed as Joint Provisional Liquidators and Joint Deemed Official Receivers on 27 May 2009, following the making of a Winding Up Order, having previously been appointed as Joint Liquidators Provisionally. Following the meeting of creditors on 7 July 2009, Peter Spratt and Mike Simpson were appointed as Joint Liquidators and Joint Deemed Official Receivers (“JLs”).

The purpose of this document is to provide creditors with :

- a report on the period of the Liquidation from 27 May 2009 to 9 July 2010, on matters arising since the making of the Winding Up Order on 27 May 2009 and;
- a summary of the costs and disbursements incurred by the JLs for the period 27 May 2009 to 9 July 2010 inclusive and;
- a receipts and payments account to 9 July 2010 and an Estimated Outcome Statement.

## First Meeting of Creditors

The first meeting of creditors was held at 11:00 a.m. BST on Tuesday, 7 July 2009, at Villa Marina, Harris Promenade, Douglas, Isle of Man.

Creditors were invited to vote, in person or by proxy, on whether or not:

- (i) an application should be made to Court to appoint a Liquidator in place of the Joint Deemed Official Receivers and Joint Provisional Liquidators;
- (ii) an application should be made to the Court for the appointment of a Committee of Inspection (“Committee”) and who the members of the Committee should be if appointed; and
- (iii) the maximum number of members of the Committee should be limited to seven in number.

Under the Companies Act 1931, for a resolution to be passed a majority in number and value of creditors of the Company present either in person or by proxy and voting at the meeting must vote in favour. Under Rule 39 of the Rules the Deemed Official Receiver or Chairman of the meeting as the case may be, shall as soon as possible after the first meetings of creditors and contributories are held, report the result of the meeting to the Court. The Deemed Official Receiver lodged his report with the High Court in the Isle of Man on 16 July 2009 advising the following:-

As required under the Companies Act 1931, the resolution put to the meeting was for an application to be made to Court to appoint a Liquidator in place of the Joint Deemed Official Receivers. This resolution failed to gain the support of a majority in number and value of creditors of the Company present either in person or by proxy and voting at the meeting. Consequently the JLs applied to the Court for an Order confirming their appointment as Joint Liquidators.

Resolutions as to whether a Committee of Inspection should be formed and whether it should be limited to a maximum of seven members were both passed at the meeting.

# 1. Letter from the Joint Liquidators and Joint Deemed Official Receivers

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## Committee of Inspection ('the Committee') or ("COI")

At the first meeting of creditors, those present and voting were requested to select up to seven out of the eleven nominees who had put their names forward prior to the meeting being:-

- Axa Isle of Man Limited
- Simon Bessant
- Gavin Brake
- Michael James Lees
- Alex Marsella
- William McMurray
- Stuart Roberts
- Royal Skandia Life Assurance Limited
- Singer & Friedlander (Isle of Man) Limited Retirement Benefits Scheme
- Nigel Smith
- Peter Wakeham

The following seven creditors were selected by the meeting:-

- Axa (Isle of Man) Limited (represented by Neill Angus)
- Simon Bessant
- Gavin Brake
- Stuart Roberts
- Royal Skandia Life Assurance Limited (represented by John Hollis)
- Singer & Friedlander (Isle of Man) Limited Retirement Benefits Scheme (represented by Mark Kiernan)
- Peter Wakeham

The Committee's role is governed by the Companies Act 1931 ("The Act") and in the Companies Winding up Rules 1934 ("The Rules").

S.184 of the Act sets out the powers which can only be exercised by the JLs with the sanction of either the Court or of the Committee. These powers include the ability to bring or defend any legal action on behalf of the Company, to carry on the business of the Company, and to appoint an advocate to assist them. It was noted these powers were granted by the Court on liquidation.

## 1. Letter from the Joint Liquidators and Joint Deemed Official Receivers

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Further powers noted in s.184 included the power to pay any classes of creditors in full (particular reference was made to preferential creditors), and to make any compromise or arrangement with creditors (for example those threatening legal action; the joint liquidator would need the sanction of the Committee for any such settlement).

The role of the Committee is to support the JLs in their work, and represent the creditors as a whole, rather than acting on behalf of individual creditors. S.185 of the Act states that the JLs shall have regard to any directions given by resolution of the creditors.

The Committee has formally met on three occasions (18 August 2009, 5 November 2009 and 29 June 2010), however there is a regular dialogue by telephone and e mail with the JLs. The flow of information occurs both ways, with members of the Committee raising points for consideration by the JLs as well as the PwC team providing information to the Committee for review and comment.

The Committee and the JLs objective is to achieve the optimum return for creditors within the statutory framework. The JLs consult the Committee as and when appropriate. An example of this is in respect of legal action to recover monies owed by borrowers. Although the JLs take action against the individual borrowers, the Committee's approval is sought before such action is launched.

### **Resolutions passed by the COI at 29 June 2010 meeting**

The COI works closely with the JLs in the liquidation process and, to facilitate the JLs staff moving matters forward, the following resolutions were passed allowing:

- The JLs to compromise the KSFUK claim at not less than £250m in order that the claim can be finalised;
- The JLs to seek direction from the Manx High Court with regard to the acceptance by the Joint Liquidators of re-assignments of Proofs of Debt;
- The JLs to pay future dividends to claimants at not less than 5p in the £ of their admitted debt, as and when funds become available.

The COI is required to authorise any compromise of a debt, so to enable the final KSFUK claim to be agreed without further reference to the COI, a minimum agreed amount has been stipulated.

There have been a number of requests for re-assignment of claims from the DCS 'back' to the liquidation and this avenue will be progressed.

There is a fixed cost of calculating and paying a dividend, and stipulating that a minimum of 5p should be paid strikes a balance between cost and benefit of the return in the form of dividend.

# 1. Letter from the Joint Liquidators and Joint Deemed Official Receivers

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## Dividends Paid and Estimated Dividend Range

The following dividends have been paid to date:

Date dividend paid	p in the £
4 September 2009	24.8
7 December 2009	15.2
9 July 2010	<u>11.1</u>
Total	<u>51.1</u>

As set out in Appendix 2 below, the JLs have provided, for indicative purposes only, an estimate of the ultimate dividend range that creditors may receive in due course from the liquidation, being between 85.3p in the £ on a low case basis and 95.7p in the £ on a high case basis. It should be noted, however, that this is an estimate and the ultimate dividend paid may vary from this range, perhaps materially. The value and timing of any future distributions is dependent upon a number of factors where there are continuing uncertainties, including but not limited to:

- Agreement of the unsecured claim against Kaupthing Singer and Friedlander Limited (“KSFUK”) and amount of dividend paid;
- Loan book recoveries;
- The claim against Kaupthing Bank h.f. (“KHF”);
- The level of final agreed claims in the liquidation;
- The level of future costs of the liquidation.

The JLs are however focused on returning funds to creditors as soon as possible and it is hoped that sufficient further funds will become available to enable the JLs to pay a further interim dividend of not less than 5p to creditors before the end of 2010.

## Next report

There are no formal requirements in respect of reporting to creditors under the Act or the Rules. The JLs will consult with the Committee as to the timings of reports to creditors but anticipate that the next formal report will be sent to creditors on or around the next anniversary of the Winding Up Order. In the meantime the JLs will however continue to post updates on the website on a regular basis and when there are any material developments.

If you have any queries, please address these to the JLs at the bank, or e-mail [branch@singers.co.im](mailto:branch@singers.co.im), or telephone the bank on +44 (0) 1624 699 222.

Mike Simpson and Peter Spratt  
Joint Liquidators and Joint Deemed Official Receivers

## 2. A combined Receipts and Payments account for the period 27 May 2009 to 9 July 2010 and Estimated Outcome Statement

### Kaupthing Singer & Friedlander (Isle of Man) Limited ( In Liquidation)

Summary receipts and payments including the Estimated Outcome Statement ("EOS") to 9 July 2010

	Summary of the Directors' Statement of Affairs as at 9 October 2008		Receipts and Payments 9 October 2008 to 26 May 2009 £'000	Receipts and Payments 27 May 2009 to 9 July 2010 £'000	Total Receipts and Payments to 9 July 2010 £'000	Joint Liquidators' estimated outcome			
	Book value £'000	Estimate to realise £'000				High Est. future £'m	Low Est. future £'m	Total High £'m	Total Low £'m
<u>Uncharged assets at appointment</u>									
Cash at bank on appointment	108,916	108,664	115,459	(54)	115,405	-	-	115.4	115.4
Certificates of deposit	53,501	53,501	18,263	35,311	53,574	-	-	53.6	53.6
Advances to customers (loans)	416,088	372,973	10,432	96,938	107,370	269.5	209.7	376.9	317.1
Less: Cost of FX hedging (EUR & USD)	-	-	-	(4,219)	(4,219)	-	-	(4.2)	(4.2)
Interest and fee income on loans	-	-	6,960	12,221	19,181	8.7	6.7	27.9	25.9
Collateral shares	-	-	6,271	114,851	121,122	-	-	121.1	121.1
Net balance due from KSFUK	320,722	Unknown	-	71,750	71,750	123.2	90.7	195.0	162.5
Property, equipment and other sundry assets	1,489	142	8	199	207	-	-	0.2	0.2
Net balance due from Kaupthing Holdings Ltd	206	206	-	-	-	-	-	-	-
Net balance due from Kaupthing hf	94	94	-	-	-	-	-	-	-
Parental guarantee from Kaupthing hf	Unknown	Unknown	-	-	-	-	-	-	-
Interest income on cash in hand since appointment	-	-	648	486	1,134	-	-	1.1	1.1
<b>Total estimated assets</b>	<b>901,016</b>	<b>535,580</b>	<b>158,041</b>	<b>327,483</b>	<b>485,524</b>	<b>401.5</b>	<b>307.2</b>	<b>887.0</b>	<b>792.7</b>

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	Book value £'000	Estimate to realise £'000				High Est. future £'m	Low Est. future £'m	Total High £'m	Total Low £'m
<b>Total estimated assets</b>	<b>901,016</b>	<b>535,580</b>	<b>158,041</b>	<b>327,483</b>	<b>485,524</b>	<b>401.5</b>	<b>307.2</b>	<b>887.0</b>	<b>792.7</b>
Less Provisional Liquidators' costs	-	-	-	(2,954)	(2,954)	-	-	-	-
Less Liquidators' costs	-	-	-	(3,776)	(3,776)	-	-	-	-
Less legal and other professional fees	-	-	(1,024)	(2,546)	(3,570)	-	-	-	-
Less employees, rent, utilities and other costs	-	-	(1,712)	(1,487)	(3,199)	-	-	-	-
<b>Total Costs and expenses</b>	<b>-</b>	<b>-</b>	<b>(2,736)</b>	<b>(10,763)</b>	<b>(13,499)</b>	<b>(4.5)</b>	<b>(4.5)</b>	<b>(18.0)</b>	<b>(18.0)</b>
<b>Estimated total assets available for preferential creditors</b>	<b>901,016</b>	<b>535,580</b>	<b>155,305</b>	<b>316,720</b>	<b>472,025</b>	<b>397.0</b>	<b>302.7</b>	<b>869.0</b>	<b>774.7</b>
<b>Estimated amounts due to preferential creditors</b>	<b>(1,654)</b>	<b>(1,654)</b>	<b>-</b>	<b>(281)</b>	<b>(281)</b>	<b>-</b>	<b>-</b>	<b>(0.3)</b>	<b>(0.3)</b>
<b>Estimated surplus available to ordinary unsecured creditors</b>	<b>899,362</b>	<b>533,926</b>	<b>155,305</b>	<b>316,439</b>	<b>471,744</b>	<b>397.0</b>	<b>302.7</b>	<b>868.7</b>	<b>774.4</b>

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	Book value £'000	Estimate to realise £'000	£'000	£'000	£'000	High Est. future £'m	Low Est. future £'m	Total High £'m	Total Low £'m
Estimated surplus available to ordinary unsecured creditors	899,362	533,926	155,305	316,439	471,744	397.0	302.7	868.7	774.4
Total ordinary unsecured creditors (excluding contingent liabilities)	(896,014)	(896,014)	(907,965)	(907,965)	(907,965)	-	-	(908.0)	(908.0)
Distributions payable			-	(442,072)	(442,072)	(426.6)	(332.3)	(868.7)	(774.4)
Estimated dividend range for ordinary unsecured creditors (indicative)			0.0%	51.1%	51.1%	44.6%	34.2%	95.7%	85.3%
Third party funds			-	20	20	-	-	-	-
Cash at hand			155,305	(125,613)	29,692	(29.7)	(29.7)	-	-

### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

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#### 1 Role of the Liquidators

- 1.1 The role and powers of Liquidators are laid out in the Order under which they are appointed by the Court and are primarily to acquire or retain possession of the property of the Company, the beneficial preservation of such assets and to call for, examine, admit or reject proofs of debt.

#### 2. General comments on Receipts and Payments and the Estimated Outcome Statement

- 2.1 The receipts and payments for the period 27 May 2009 to 9 July 2010, together with an Estimated Outcome Statement is set out on pages 8 to 10. This shows total receipts for the period of £327.8m, and total payments of £439.3m, and a net balance of cash in hand of £29.7m at 9 July 2010. Where cash is held in a currency other than Sterling, the foreign exchange rates used were close of business rates on 9 July 2010.

##### Exchange Rates Used

- GBP/CHF 1.5945
- GBP/EUR 1.1971
- GBP/JPY 133.869
- GBP/USD 1.5159

Since 27 May 2009, the following material receipts have occurred:

- £96.9m in respect of capital repayments on loans
- £11.4m of interest payments on loan book plus £0.8m in fees from borrowers
- £35.5m in respect of CDs
- £114.8m in respect of share sales
- £71.75m from KSFUK dividends

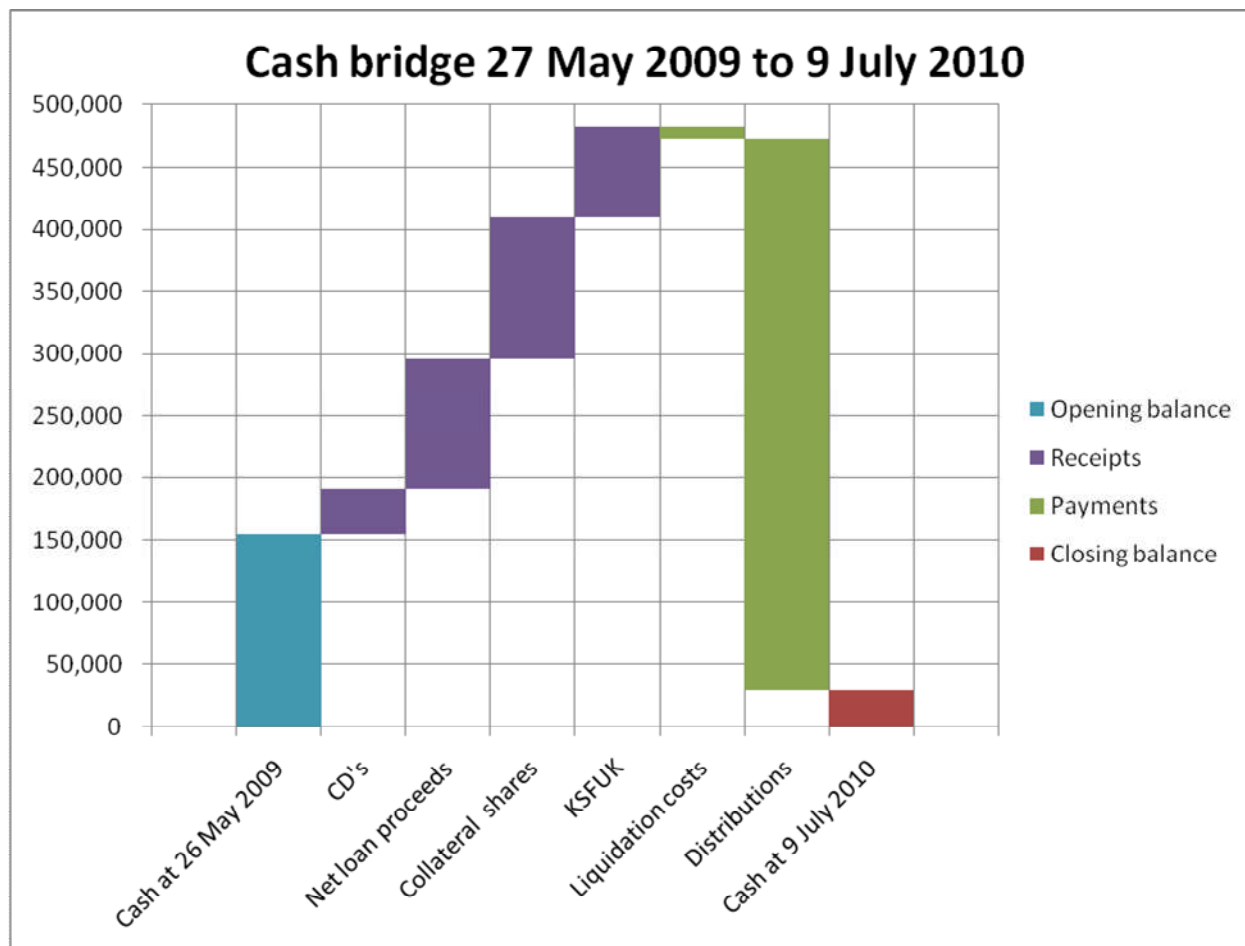
- 2.2 The realisation process relating to collateral shares disposed of to date required certain indemnities to be given to J P Morgan Cazenove in order to effect a sale of the shares. There were no claims under these indemnities which expired on 31 May 2010, and the cash released has been included in the dividends paid.
- 2.3 Since the making of the Winding Up Order on 27 May 2009, funds received have been generally converted into Sterling to match the currency in which distributions to creditors will be made. Some currency balances are held to pay costs denominated in currencies other than Sterling such as registry fees, legal expenses and other statutory filing costs. The funds under management are invested by the PwC in-house Treasury team and are invested with banks who are A+ rated (Standard & Poors short-term rating) or better. Given continuing fluctuations in ratings and perceived risk of individual banks, the funds are invested for short periods only.

### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

#### 3. Comments on Assets and Receipts

##### 3.1 Cash at bank and cash received in the liquidation since 27 May 2009

The Directors' Statement of Affairs stated that as at 9 October 2008 an equivalent of £108.9m was held by the Company. To 27 May 2009 cash realised was £158.0m. As at 9 July 2010, a total amount of £485.5m had been realised in the liquidation.



### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

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#### 3.2 Certificates of deposit (“CDs”)

- 3.2.1. As at 9 October 2008 there were 8 CDs which had been purchased by KSFUK for the Company which had not yet matured for principal amounts totalling £53m. Funds were recovered via KSFUK in respect of 4 of the CD's, totalling £18m plus accrued interest of £0.3m.

The remaining 4 building societies alleged that they were not aware that KSFUK had purchased the CD's on behalf of another company and that they were themselves owed money by KSFUK against which they intended to apply set-off. As reported previously an application by one of the building societies to apply set-off was made in the English High Court. Judgment was awarded in favour of KSFUK and the Company. Since the date of the Court hearing and following discussions between the respective sets of lawyers, all 4 building societies have now released their claims over the CDs and have released funds totalling £35.5m to KSFUK and these funds were paid on to the JLs in August 2009. Total funds received for the CD's were £53.6m.

#### 4. Advances to customers

- 4.1 According to the Directors' Statement of Affairs, as at 9 October 2008 the Company had loans to customers, valued at a sterling equivalent of £416m. This amount did not allow for the operation of set-off (see below) or for future interest income. The figures relating to outstanding loans quoted in this report are as at 30 June 2010, and the position has not changed materially to 9 July 2010.

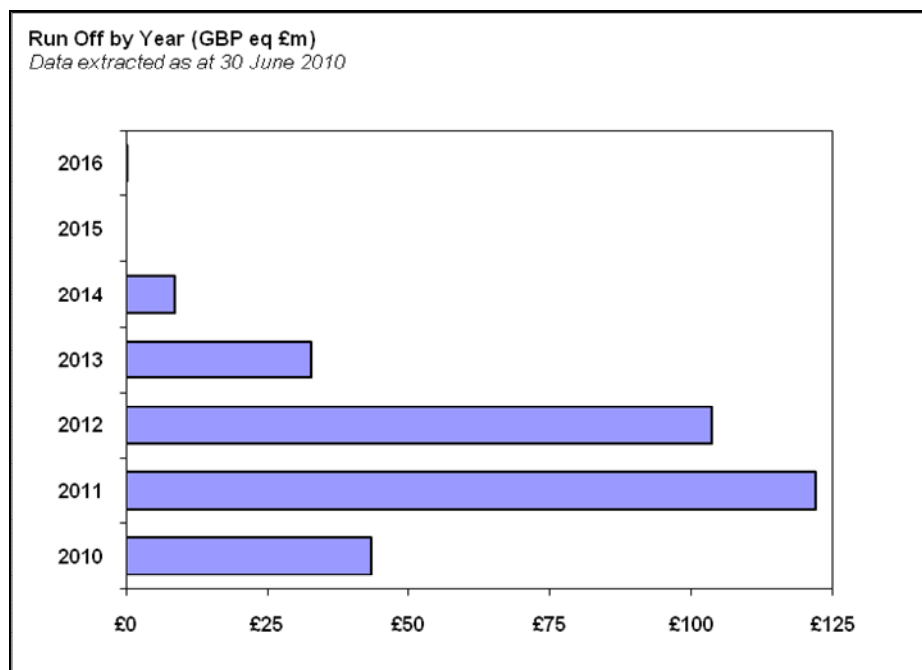
As at 30 June 2010 there are 113 loan facilities, compared to 180 at 9 October 2008, with the outstanding capital value of the loan facilities of a sterling equivalent of £310.7m. Some of the loans are denominated in foreign currency. Between 27 May 2009 and 9 July 2010, £12.2m has been collected on the loans in respect of interest payments due and since 27 May 2009, £96.9m has been collected in respect of capital repayments, based on exchange rates prevailing on the date of repayment of any currency amounts.

The JLs have entered into negotiations with borrowers where the contractual repayment date was in 2016 or 2017 and have been successful in rescheduling most of these loans. Over 99% of outstanding loans are now due to be repaid by March 2014.

### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

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- 4.2 As reported previously the large majority of loans are secured on premium residential properties and are interest only during the life of the loan, with the capital repayment being made on the maturity of the loan. The loans are contractually repayable over the period up to 2016 as set out in the capital repayment table below, and it should be noted that repayment dates are not spread evenly throughout the years, typically they are on the anniversary of the initial drawdown or facility approval:

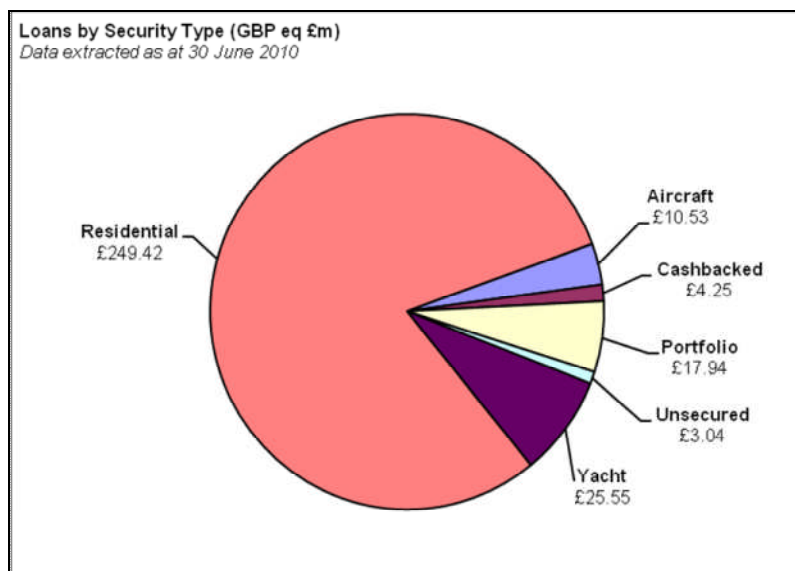


- 4.3 The Company's loan book continues to be actively managed by the JLs, working with former members of the Company's staff who have been retained. The continuity afforded by continuing to employ the relationship team has been invaluable to the JLs and has enabled an orderly realisation of the Company's assets. Day to day borrower contact is maintained by the bank staff and managed by a member of the liquidation team. The current strategy is to run off the loan book over its natural life, to maximise the return to creditors. A panel of banking institutions has been approached to assist borrowers in re-financing their loans as terms expire, and any borrower seeking to re-finance is put in touch with these banks at an early stage. A number of loans are in the process of being re-financed at 30 June 2010, and we anticipate further redemptions over the second half of 2010 as loans reach their contractual maturity dates. Updated desktop valuations were carried out during the second quarter of 2009 on all UK properties secured on loans where the loan to value ratio ("LTV") was 60% or greater. Where LTV breaches were identified by this exercise, the borrowers concerned are formally requested to make capital payments to bring the facility back within agreed parameters. Where borrowers disputed

### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

the desktop valuations, they were invited to provide full valuations (at their cost) to support the contention that LTV covenants were intact. LTV's are kept under constant review and any potential or actual covenant breaches are immediately considered by the JLs and a course of action is agreed upon, including capital reductions and obtaining revised valuations. Loan book provisions are reviewed by the JLs on a regular basis.

- 4.4 Borrowers are contacted on a regular basis to ensure that interest due is collected promptly and that any proposals to repay part or all of the loans in advance of the contractual maturity date are dealt with and assistance is given where possible. All borrowers have been made fully aware of the liquidation situation and a programme of managing borrowers within 12 months of their loan maturity date is in place. Where it appears they are unable to repay on or by the contractual maturity date, this is immediately brought to the attention of the JLs for a decision on how the relationship is to be managed. Each circumstance is, however, different and a combination of short maturity extensions, increased interest rates and as a last resort, legal action has been utilised. The COI are informed of any such pending legal action and approve the action before it is commenced.
- 4.5 There are currently a small number of borrowers where interest is more than 30 days overdue. Most of these are due to the borrower awaiting the outcome of set-off claims or legal action which has been taken by the JLs and it is anticipated that these facilities will cease to be in breach, or indeed be repaid once these issues are resolved. Where the situation has arisen because of a failure to pay scheduled interest or capital amortisations, penalty clauses in the loan agreements have been activated and typically a higher rate of interest is charged until the facility is restored to the correct level. Each case is individually reviewed by the JLs at regular meetings.



Given the interest only nature of the loan portfolio, it is difficult to predict with certainty the amount that will be recovered in due course but we note that in general terms the loan portfolio is secured on assets of a high quality.

Over 80% of the loan portfolio is secured on property, 8% is secured on yachts, 6% on portfolios and 3% on aircraft. The property portfolio is further considered below. There are four yachts and two aircraft remaining in the portfolio, although at 9 July 2010 a sale process is underway for one of the aircraft and one of the yacht loans is also due to redeem shortly. The loans secured against portfolios of assets are regularly monitored, and LTV covenants are in place for all these facilities.

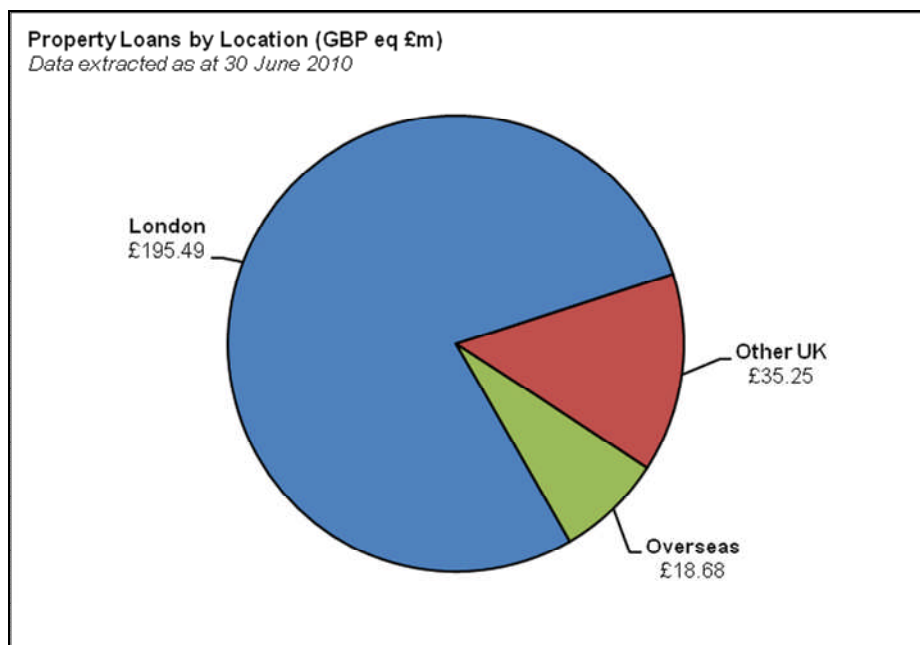
### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

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For the purposes of providing indicative amounts in the Estimated Outcome Statement we have used capital loan values at 30 June 2010 plus future interest income converted into Sterling as at 9 July 2010 exchange rates. On a high case basis we have assumed that all loans default and that the security is realised at 90% of the outstanding loan value. On a low case basis we have assumed that all loans default and that the security realises 70% of the loan value. These estimates are based on our view of the market, and taking a prudent position. However at 30 June 2010 write offs totalled less than 1% of the original loan portfolio value so we are hopeful of a better outcome than has been used in the projections.

#### 4.6 Loans secured on property

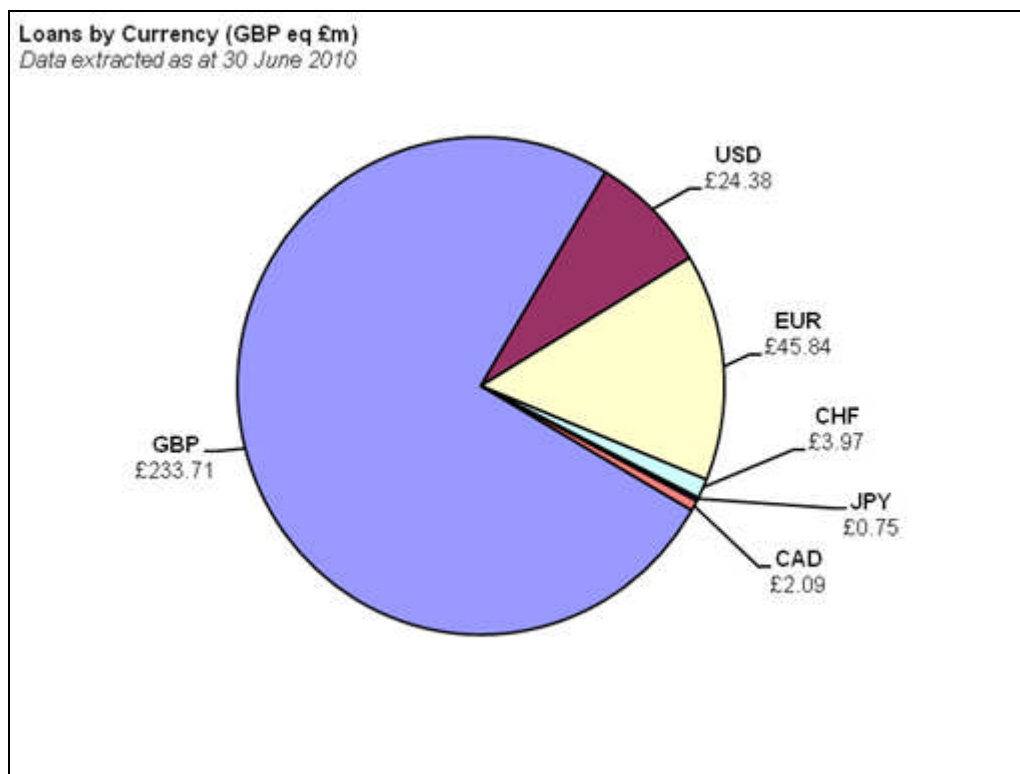
78% of property loans are secured on property in London, 14% are secured on other UK property and 8% are secured on property located outside the UK. London and the South East of England region appears to have suffered less from the UK recession and valuations are holding up. The JLs are in regular discussion with major London property agents and would be alerted to any major shift in values that might lead to consideration of a further revaluation exercise.



The JLs have met with many of the borrowers and an active dialogue is maintained with all borrowers to ensure interest payments are received, and that insurance held over the properties is up to date.

### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

#### 4.7 Foreign Currency Loans and Hedging of receipts

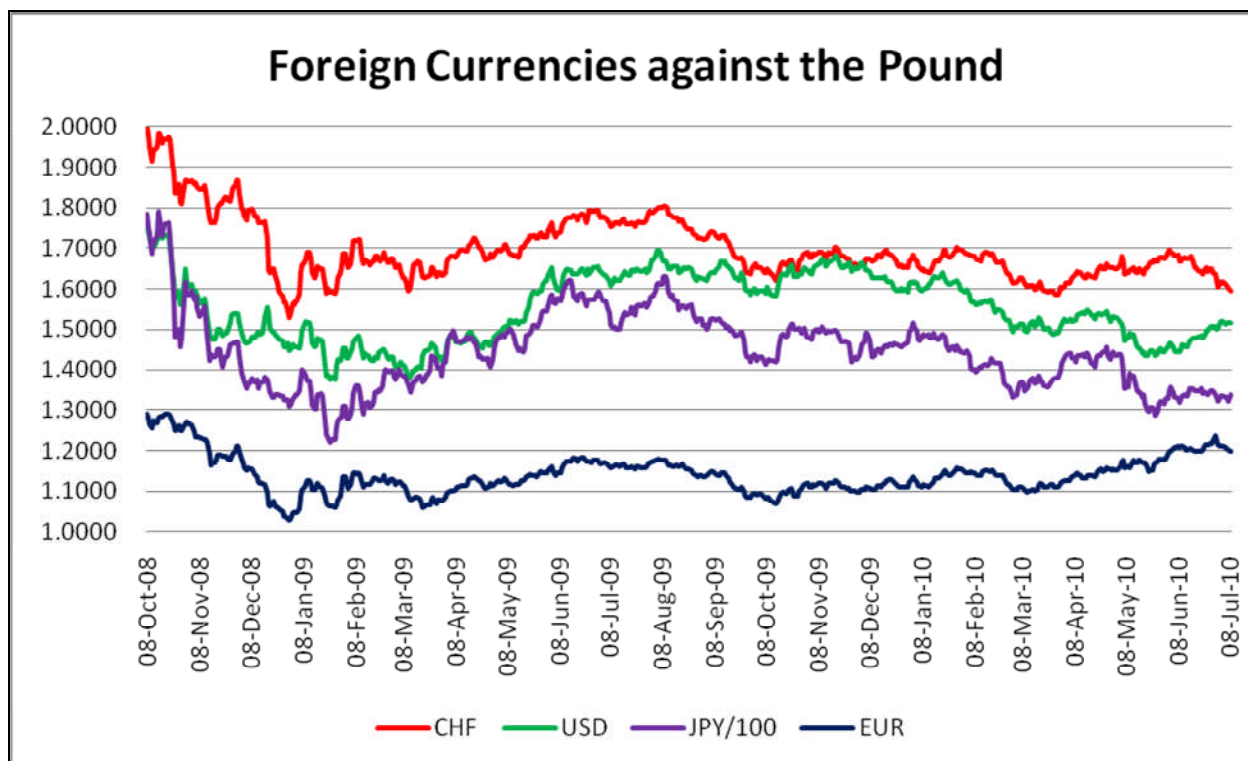


Significant receipts are due in USD or Euro and both these currencies have appreciated against Sterling since 9 October 2008, which has led to a rise in value of the loans.

The appreciation has led to a notional gain in the value of the loan portfolio of £14.2m at 30 June 2010. We have sought to protect a portion of the unrealised gains recorded by purchasing currency options to co-incide with scheduled repayment dates for a number of the largest loans denominated in USD or Euro. These options are kept under constant review by the liquidation team and where exchange rates have moved further in our favour (e.g. in March 2010), we strengthened our option position.

Where a currency loan facility is repaid early, the JLs will decide whether to hold the currency until the exercise date of the option, or to exchange it at the spot market rate and add the amount to the sterling cash available for distribution. The JLs continue to monitor the exchange rates for the remaining part of the portfolio (CHF, JPY & CAD), and will take advantage of opportunities to protect significant gains in the value of these assets as appropriate.

### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010



#### 4.8 Potential sale of loan portfolio

Following consultation with the Committee, an exercise is currently being conducted to determine whether any offers could be obtained at an acceptable level for all or part of the loan portfolio. Our view is that the provisional offer levels still fall short of providing an equivalent return to managing the loans to contractual settlement date, however the exercise is not yet completed.

Due to the short maturity dates over much of the loan book and historically low interest rates, it is difficult to foresee a situation where the discounted cash flow value of an offer at less than full value to purchase the book will outweigh the value of realising the loans at contractual maturity dates.

- 4.9 We will continue to provide monthly updates on movements on the loan book via the website as this is a key area of interest for creditors. For reasons of confidentiality, such updates do not analyse individual loan movements, but are necessarily an overview of the portfolio.

### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

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#### 5. Disposal of share collateral – Repo Agreement

- 5.1 The Company and KSFUK entered into various sale and repurchase agreements in relation to shares from April 2008 onwards. These arrangements were governed by the Repo Agreement dated 5 June 2008. The total Repurchase Amount under the Repo Agreement was £185m. Notice of termination of the Repo Agreement was given in October 2008 although it was the view of our legal advisors that the agreement terminated automatically following the appointment of Administrators to KSFUK on 8 October 2008.

There were 5 sets of collateral shares held by the Company under the Repo Agreement as at the time of the appointment of the Administrators to KSFUK on 8 October 2008. Certain shares were “in transit” on 8 October 2008 which meant the Repo Agreement was under collateralised at the time of appointment of the Administrators which resulted in the Company having a claim against KSFUK under the Repo Agreement which we now believe will be agreed at £43.2m. We continue to investigate the issues relating to the movement of the shares in transit and to seek legal advice with regard to the Company’s position. We also continue to correspond with the Administrators of KSFUK to establish the factual background and have reserved our position currently with regard to any legal action the Company may have in respect of these particular shares.

Of the five sets of shares held in the portfolio on 9 October 2008, the Company’s respective 23% and 22% holdings in JJB Sports PLC and Booker PLC were sold on the Company’s behalf by JP Morgan Cazenove via placings in the market. These were both substantial holdings in listed PLCs and as such it was considered appropriate to instruct a well known and credentialed firm such as JP Morgan Cazenove to advise on and carry out the disposal of the shares. The position was complicated further by disputes over legal and beneficial ownership of the shares which needed to be resolved before the shares could be sold on the market. A total amount of £100.5m has been recovered in respect of the shares. In addition a dividend of £0.6m was received in respect of the Booker shares.

Of the remaining three holdings of shares, two comprise smaller holdings in two Icelandic companies, one of which has been suspended on the NASDAQ OMX and subsequently delisted. It is not believed that a material recovery will be made in respect of these two sets of shares.

We are not able to disclose the identity of the fifth company due to confidentiality issues although we subsequently received £20.7m on the sale of these shares.

Total cash realised for the collateral shares is £121.8m.

#### 6. Amount owed by KSFUK

- 6.1 The Administrators of KSFUK have paid dividends of £71.75m to the JLS representing 35p in the £ on £205m of our claim which represents the portion of our claim which has so far been agreed. Their latest estimate is that the total dividend that they will pay in due course may be in the range of 65-78p in the £, and they have announced that they will pay a dividend of 10p on 28 July 2010.

It is currently anticipated that a claim of £250.2m will be admitted in the Administration of KSFUK the particulars of which are discussed below.

The major point at issue in the claim negotiations was the valuation of KSFUK’s set-off against the loan sub-participation agreement.

### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

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In the website update posted in December 2009 we put a value on this set-off of £165m, being the outstanding capital at 8 October 2008. In their latest report in April 2010 the Administrators of KSFUK showed a "SofA value less actual collections to 31 March 2010" of £200m which caused some concern among some of our creditors. It was always our contention that interest due was to be treated as a deferred claim and that the loans were translated at the due date in accordance with the relevant legislation. In addition as the sub-participation loans were due at future dates, the claim had to be reduced in accordance with Rule 2.105 of the Insolvency Rules 1986. We put this view to the Administrators of KSFUK and they have now confirmed that as part of an overall settlement they will accept a reduction in the set-off amount to £143.4m.

We have also agreed the set-off in respect of certain inter- company recharges which were originally claimed by KSFUK at circa £600,000 but now have been reduced to less than £3,000.

There are two matters that reduce these improvements, one being an agreement on the ISDA valuation (forward FX and interest swap deals) at £2.1m as opposed to our previous claim of £2.5m and a claim for set-off of circa £1m in respect of funds transferred to KSFIOM depositors by KSFUK in error. If these funds had not been paid then claims against KSFIOM by those depositors would have increased by that amount. KSFUK have provided full details of these transfers and the matter is under consideration.

#### 6.2 Summary of KSFUK Claim:-

The position can be summarised as follows:

	£m	£m
Cash deposits	349.6	
ISDA	2.1	
GMRA Agreement	185.0	
Certificates of Deposit (CD's)	<u>53.0</u>	
Gross Claim		589.7
Less:		
Cash Received from CD's	-53.0	
Security Valuation under the GMRA (repo)	<u>-142.1</u>	<u>-195.1</u>
Claim submitted by KSF IOM		394.6
Less:		
Depositors paid by KSFUK	-1.0	
Set-off claimed under sub-participation loan agreement	<u>-143.4</u>	<u>-144.4</u>
Potential Claim on which dividend will be paid		<u>250.2</u>

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#### 6.3 The GMRA (“Repo Agreement”)

The Repo Agreement was an industry standard under which KSFIOM lent KSFUK £185m secured against various securities. These were reviewed regularly and, if required, cash payments were also made to KSFIOM. The securities held had prior to our appointment been substituted on a number of occasions with the agreement of KSFIOM. In the period immediately prior to 8 October 2008 some securities were due to be swapped. Securities held by KSFIOM were released but the attempt to substitute them was aborted due to the appointment of administrators of KSF UK.

In addition some shares were removed without the consent of the management of KSFIOM. This resulted in a shortfall in the value of the security based on the collateral value of shares under the terms of the GMRA. The JLs originally estimated this shortfall at £47.6m while the Administrators of KSFUK have indicated a value of £43.2m. In addition the JLs have stated that they have a claim in respect of the shares removed without agreement. The lower amount has been used in the above table but no provision has been made in respect of any recoveries that may arise from the claim in respect of the removed shares.

We would point out that in any claim in respect of removed shares, credit would have to be given for the fact that the claim against KSFUK is higher as the Company did not hold these shares at the relevant date.

#### 6.4 Estimated recovery against KSFUK claim

For the purposes of the Estimated Outcome Statement, on a high case basis we have taken the agreed claim amount as £250m based upon the latest negotiations and have estimated that 78p in the £ is paid by KSFUK. On a low case basis we have taken the claim amount of £250m and have estimated that 65p in the £ is paid by KSFUK. These are estimations and until the claim against KSFUK is finally agreed we are not in a position to comment with any greater clarity as to the amount that might be recovered from this claim. We are hoping to finalise the position shortly in order that a catch-up dividend can be paid to KSFIOM from KSFUK. Based upon the above figures and the recent dividend announcement from KSFUK this would amount to £20.34m.

### 7. Amounts owed from Kaupthing h.f. (“KHF”)

7.1 There are balances owed to and from KHF in the Company's records, arising from loans received from and deposits placed with KHF.

The Directors' Statement of Affairs shows an amount owed to KHF of £185.4m and an amount owed from KHF of £185.5m. We have sought legal advice in Iceland and understand that under Icelandic law set off would potentially apply frustrating any attempt to enforce recovery of the amount owed by KHF.

### **3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010**

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#### **8. Parental guarantee**

- 8.1 A provisional claim under the guarantee in the sum of £960m was previously lodged with the Resolution Committee to protect the Company's position. However we anticipate the quantum of the claim against KHF under the guarantee will need to be adjusted continuously to reflect the actual shortfall position following realisation of the Company assets. The next adjustment will be prepared and submitted to Court by 3 September 2010.

It has been confirmed to us that the Company's claim against KHF has been referred to the District Court of Reykjavik for a decision. Our claim was one of the first to be referred to Court by the Winding Up Committee, however, the Courts already have a large number of claims to hear in respect of other insolvencies. We have not yet been notified of a date for the hearing. However, in the meantime we are continuing to accumulate evidence to support our claim, which will be pursued vigorously in Court. It has been indicated to us that it is likely to be late 2010 or early 2011 before the Court issues its decision on our claim. Both sides will have the right of appeal to the Supreme Court of Iceland. The timetable for such an appeal is not clear but, if an appeal were made, it could easily be another year before a final decision would be handed down.

The latest information we have is that the Winding Up Committee has received over 28,000 claims, of which only 417 have been agreed so far. Approximately 3,400 claims have been wholly or partially rejected (including ours), 13,000 are in dispute as to the priority of claim and a decision has been held over on a further 9,500. They have so far received 297 objections to their decisions.

The Winding Up Committee have indicated that they will not be in a position to make any distributions until substantially all cases referred to Court have been decided upon. This is frustrating, however it does make sense given the high volume of claims which are in dispute either over the amount of claim or the level of priority. The Chairman of the Winding Up Committee stated that this could take "three to four years" before the first distribution.

Further creditors meetings are scheduled for 21 September 2010 and 3 December 2010 and we will attend these meetings whilst continuing to gather evidence with which to support and pursue our claim.

#### **9. Other legal matters**

##### **9.1 Bank of England**

Shortly before entering administration KSFUK were ordered by virtue of an FSA Supervisory Notice to set up a separate Trust Account at the Bank of England ("the Account") into which qualifying deposits taken in the period 2 October 2008 to 8 October 2008 were to be placed. These deposits would then be classified as trust money and would fall outside KSFUK's estate.

KSFUK issued proceedings in the English High Court in 2009, seeking directions as to which parties were entitled to be classified as beneficiaries, and have the right to a share of the monies in the Account. Various parties were joined as respondents to the action who would have the task of representing certain potential beneficiaries in the Account. In March, the Company agreed to represent a class of depositors in KSFUK, namely inter group companies, financial institutions and banks who made deposits with KSFUK in the period 2 October 2008 to 8 October 2008. An indemnity for costs was provided. All billed costs to date are within the indemnity limit.

### **3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010**

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There was a three day hearing of this matter which was heard between 19 and 21 May 2009. Judgment was handed down on 10 July 2009. In summary, Mr Justice Smith substantially accepted the Company's legal arguments, and held that the class of depositors it represented (as referred to above) should be classified as qualifying depositors who have an entitlement to share in the £147m held in the Account. A number of parties appealed this decision (including the Company in respect of the decision to allow KSFUK to be paid out first in full for all "repaid deposits"). The Court of Appeal has handed down its judgment in respect of the above case. The judgment has gone against us - the Court has overturned the original judgment regarding the interpretation of the words "deposit" and "customer", so that KSFIOM and other group companies and financial institutions will not be able to share in the Trust Account proceeds. This is obviously disappointing but is not unexpected. Based on the legal advice we have obtained in respect of this judgment, we have not lodged a further appeal. The JL's legal costs in respect of this matter are to be paid out of the funds held in the Trust account by the Administrators of KSFUK.

#### **9.2 Habana Limited**

In the Habana proceedings, Habana (now Du Preez Limited) sought an Order declaring that £2.3m, which they instructed the Company to transfer from Habana's account with the Company prior to the liquidation provisionally (which transfer was never completed via the Company's account with Deutsche Bank), should be transferred as per their original instruction. The initial decision went against Habana and they appealed.

The appeal hearing in the Isle of Man concluded on 24 March 2010 when the Staff of Government Division (the Isle of Man's Court of Appeal) handed down its judgment in respect of the appeal made by Du Preez Limited (formerly Habana Limited) against the original judgment which went against them. The Appeal Court upheld the original judgement. No further appeal was lodged within the time stipulated.

#### **10. Investigation**

The JLs are conducting an investigation into the circumstances surrounding the directors' decision to seek a winding up order in respect of the Company in October 2008, and the contributory factors. The investigation continues and a full report on progress was made to the COI on 29 June 2010. Further information cannot be disclosed at this stage due to the risk of prejudicing further proceedings.

#### **11. Re-direction/Re-assignment of claims**

The Scheme Manager of the DCS has announced that he does not intend to allow re-direction of surplus payments in the DCS at the present time due to the risk of error.

The JLs have received and accepted a number of requests from creditors to re-direct dividend payments to a third party.

A number of depositors have enquired about the possibility of re-directing or re-assigning of claims made through the Depositors Compensation Scheme (DCS). The process of re-assigning a claim from the DCS requires the JLs to substitute the name of the person on the Proof of Debt for that of the DCS Scheme Manager. Our legal advice is that this process requires a Court order and it has been agreed with the COI that the Court will be approached for directions at an appropriate time to be agreed.

### **3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010**

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#### **12. Creditors**

##### **12.1 Amounts due to preferential creditors**

Preferential creditors were paid in full in June 2010. The total amount paid was £281,112.99. All preferential creditor amounts were due to the Isle of Man Government, and represented payroll taxes and European Union Savings Directive taxes deducted prior to the liquidation.

In the original statement of affairs, preferential creditors were shown at £1,654k, however that estimate included the income tax assessed as payable prior to the liquidation. The effect of the liquidation was to produce a loss in tax year to 5 April 2009, and after negotiation with the IOM tax authorities, this loss was allowed to be carried back against assessed profits of previous years, resulting in a net repayment to the Company.

The income tax repayments were netted off the payroll taxes and EUSD taxes due, resulting in the lower amount of £281,112.99 being agreed and paid.

##### **12.2 Amounts owed to unsecured creditors**

Unsecured creditors are estimated at £908m. We have admitted 7,762 claims (including DCS claims) with an admitted value of £882m in the calculation of the third interim dividend. Claims of £21m have been received but not yet admitted, and there is £5m worth of potential claims which are anticipated but not yet received. All anticipated claims are reserved for in the dividend calculations.

#### **13. Costs and operational issues**

##### **13.1 Costs of the Joint Liquidators**

The time costs and disbursements of the JLS paid for periods to 2 April 2010 and accrued to 9 July 2010 are detailed in Section 4 of this report. The fees of the JLS are subject to the approval of the COI. A portion of the pre 27 May 2009 costs is still unpaid pending approval of the Court.

##### **13.2 Legal and other professional costs**

The details of legal costs of £3.0m (£3.47m inc. VAT) included in legal and other professional costs, totalling £3.57m to 9 July 2010 are as follows:-

Cains have been engaged to provide advice in the progress of the liquidation, including applications made to the Manx Courts, advice on the constitution and appointment of the COI, advice to the COI and throughout the setting up and execution of the dividend distributions (including EPS & DCS interplays). They have also acted in the recovery of assets, particularly loan book assets and also in the preparation and submission of the Iceland claim. They have also provided advice and assistance in the investigation into the circumstances surrounding the Company's winding up in 2008. Total costs paid to 9 July 2010 are £889.3k with a further £170.3k in respect of counsel fees.

### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

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Nabarro have been heavily involved in the negotiations with KSFUK over our claim, and with various aspects of UK law affecting the liquidation, including the Bank of England case. Total costs paid to 9 July 2010 are £1.2m with a further £222.7k in respect of counsel fees.

Lovells advised on the Scheme of Arrangement. Total costs paid to 9 July 2010 are £252.7k with a further £1.2k in respect of counsel fees.

Reed Smith have assisted in the investigation. Total costs paid to 9 July 2010 are £171.5k.

Jonsson & Hall are the Icelandic lawyers advising on the KHF claim. Total costs paid to 9 July 2010 are £36k.

Teitelbaum & Baskin assisted in the determination of claims process. Total costs paid to 9 July 2010 are £14.5k.

Total counsel fees incurred were £394.2k.

Other professional fees of £0.1m are in respect of loan asset valuations carried out on behalf of the JLs.

#### 13.3 Employee costs

At 9 October 2008, the Company employed 64 staff. As at the date of this report, 12 Company staff continue to be employed in assisting the JLs. During the liquidation the JLs have reviewed staffing requirements regularly and redundancies have been made. The employees retained have provided and continue to provide assistance in the following areas:

- Administration and realisation of the loan book;
- Assisting in respect of disputes relating to the CD's, the Repo Agreement and the collateral shares;
- Assisting in respect of litigation;
- Assisting in reconciling the positions with KSFUK and KHF;
- Dealing with creditors queries including telephone calls, emails and letters;
- Keeping the Company's records up to date;
- Logging of Proof of Debts and assisting in adjudication process;
- Liaison with the DCS Scheme administrator;
- Maintenance of IT systems;
- Assisting in the dividend payment process.

The employees' historical knowledge of the Company and its systems has been essential in a number of areas and as such it has been necessary to incentivise employees to remain with the Company in the short term. Employee costs for the period under review total £1.2m, reflecting the number of staff remaining in place to assist in logging and recording claims in the second half of 2009.

### 3. Report on the Liquidation for the period from 27 May 2009 to 9 July 2010

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#### 13.4 Premises rent and other costs

The Company now occupies half a floor at Samuel Harris House, 5 -11 St. Georges Street, Douglas, Isle of Man, under a re-negotiated lease which runs until 2012 at a substantially reduced annual cost.

Other costs include IT costs such as software licenses and maintenance, and other operating costs such as utilities.

#### 13.5 VAT

VAT of £0.75m has been recovered over the period since 8 October 2008. The Company is partially exempt for VAT purposes.

#### 13.6 Estimated future costs

For the purposes of calculating the estimated dividend range we have included a figure of £18m for total costs of the liquidation, including liquidators fees, legal costs and operational costs over the life of the liquidation.

We would however stress that this is a conservative figure which assumes the detailed investigation is completed and results in litigation being pursued to a full court hearing against one or more parties. In reality, if successful in pursuing litigation a defendant would be entitled to a reasonable proportion of their costs being met.

#### 14. Estimated Dividend Range

For indicative purposes only, we have estimated that the dividend range may be between 85.3p in the £ and 95.7p in the £. We have not allowed for any return in respect of the parental guarantee. Clearly any recovery from this source will impact the final dividend to creditors. The estimate also does not allow for any potential recoveries arising out of the ongoing investigation into the Company's affairs.

##### **On-going strategy for the liquidation and other matters**

The JLs intend to concentrate on the following areas going forward:

- Continuing to oversee the collection of the loan book;
- Finalising the Company's claim with KSFUK;
- Pursuing a claim against KHF under the parental guarantee;
- Declaration and payment of subsequent dividends when funds are available;
- Considering further actions against parties identified by the ongoing investigation;
- Consulting closely and regularly with the Committee of Inspection;
- Reporting important information to creditors via website updates.

## 4. Fees of the Joint Liquidators

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### Remuneration of the Joint Liquidators for the period 27 May 2009 to 2 April 2010.

The fees of the JLs and their staff is being charged on a time costs basis and is subject to approval by the COI. At the date of this report the JLs have received £5.7m (net of VAT) in fees for the period 27 May 2009 to 2 April 2010 and £169k (net of VAT) in disbursements. We include overleaf a summary of the time incurred from 27 May 2009 to 2 April 2010. An analysis of subsequent time will be submitted to and scrutinised by the COI in due course. 80% of fee invoices submitted are paid on presentation, the remaining 20% is subject to the approval of the Court for pre 27 May 2009 costs and the COI for post 27 May 2009 costs. At the date of this report there are still 20% retentions for all pre 27 May 2009 costs and for some post 27 May 2009 costs.

### Narrative of work carried out for the period 27 May 2009 to 9 July 2010

The key areas of work and a broad description of the tasks involved are identified below.

- Strategy and planning issues;
- Communication with depositors and other creditors;
- Team management – team meetings, supervision of team;
- Accounting and treasury – keeping of cash books, reconciliations, investment of funds;
- Statutory and other compliance – court hearings, regulatory requirements;
- Negotiations for a sale of the business and all or portions of the loan book;
- Loan book - day to day monitoring of loan book, collection issues, work around potentially selling the loan book;
- KSFUK – liaison with KSFUK administrators regarding reconciliation issues, release of CD's, progress in administration, receipt of dividends, agreeing claim;
- KHF – liaison with Resolution Committee, submission of claim under parent guarantee, attending meetings in Iceland and London;
- Repo/collateral shares – overseeing legal disputes, meeting regulatory requirements, negotiation and sale of shares;
- Litigation - Bank of England, Habana, Newcastle Building Society, in connection with loan clients;
- Operational issues/suppliers – premises, IT issues, etc.;
- Employee matters – redundancies, employee meetings, payroll agreement, employee claims;
- Depositor reconciliation and claims process – including reconciliation of accounts as at 9 October 2008;
- Depositor queries – written queries by post or by email, telephone calls to JLs, website announcements;
- Creditor distribution planning - setting up of claims and distribution database, meetings with DCS, EPS manager;
- Creditor distributions – first, second and third interim dividends, reconciling claims with DCS and EPS, payments, correspondence;
- Tax – Submission of income tax and VAT returns in Isle of Man, agreeing preferential creditors and payment thereof;

## 4. Fees of the Joint Liquidators

### Liquidation time costs for the period 27 May 2009 to 2 April 2010

	Partner H	Director H	Senior manager H	Manager H	Senior Associate H	Assistants & Support Staff H	Total Hours H	Time Cost £	Average hourly rate £
Strategy and planning	62.2	51.0	36.6	23.7	22.8	11.5	207.7	78,960	380
Team management	8.1	5.3	88.4	6.1	111.8	4.5	224.2	67,969	303
Accounting and treasury	8.3	13.4	89.0	140.3	1,565.4	567.6	2,384.0	433,046	182
Statutory and other compliance	68.3	39.6	156.5	98.7	638.8	124.9	1,126.7	242,300	215
Sale of business process	15.1	16.5	9.8	0.5	-	-	41.8	17,820	426
Committee of inspection	154.0	65.3	77.2	-	12.7	44.1	353.2	148,200	420
Creditors Meeting	69.8	-	30.0	3.5	226.8	157.8	487.8	114,299	234
Loan book collections	263.7	54.3	324.1	-	10.9	2.0	655.0	269,848	412
KSFUK	8.6	99.3	55.0	8.9	22.8	-	194.5	74,945	385
Kaupthing hf	102.7	33.3	51.4	-	-	0.7	188.0	82,695	440
Sister company (SFIM)	1.9	2.5	9.0	-	3.0	-	16.4	6,038	369
Repo - collateral shares	44.3	48.3	55.4	17.0	-	7.0	171.9	79,663	463
Recovery of bank deposits	1.1	-	-	-	2.3	-	3.3	821	247
Litigation	18.1	20.5	3.7	-	-	6.4	48.7	19,208	395
Ongoing operational issues / suppliers	15.8	-	56.1	-	278.1	51.7	401.7	62,888	157
Employee matters, pensions and creditor employee claims	21.3	1.3	43.9	100.7	175.9	18.0	361.0	90,418	250
Agreeing intercompany creditor claims	1.0	-	1.5	-	-	-	2.5	1,025	410
Depositor claim reconciliation process	73.9	2.5	346.3	508.2	481.8	129.3	1,541.9	453,545	294
Depositor enquiries and correspondence	106.1	8.8	181.0	47.9	368.6	207.6	920.0	199,239	217
Other assets	0.8	-	16.0	-	1.2	-	17.9	6,111	341
Creditor distributions: planning	1.0	-	50.2	138.0	53.0	0.2	242.4	82,018	338
Creditor distributions	63.9	12.2	447.1	104.0	1,453.1	830.8	2,911.1	495,309	170
Tax	2.3	202.1	31.4	54.4	38.4	23.1	351.7	115,833	329
Forensic investigation	5.5	281.0	-	275.1	-	242.4	803.9	220,651	274
Forensic technology	-	-	3.0	35.5	91.3	36.0	165.8	33,394	201
Tynwald Select Committee document request	-	34.5	-	74.5	7.5	65.4	181.8	38,283	211
Forensic Parental guarantee	-	1.5	-	20.0	-	-	21.5	5,550	258
	<b>1,117.8</b>	<b>993.2</b>	<b>2,162.6</b>	<b>1,657.0</b>	<b>5,566.2</b>	<b>2,531.0</b>	<b>14,026.4</b>	<b>3,440,076</b>	<b>245</b>
Treasury Early Payment Scheme	-	-	0.5	-	14.2	2.8	17.4	2,026	116

This table has been produced from a spreadsheet which contains detailed formulae which in certain instances produces minor rounding differences.

We have not charged travelling time for PwC UK staff travelling to and from the Isle of Man.

## 4. Fees of the Joint Liquidators

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### Category 2 disbursements for the period 27 May 2009 to 9 July 2010

In accordance with SIP 9 the JLs have set out their rates for “category 2” disbursements for services provided by their firm. These are set out as follows:-

- Mileage incurred in the Isle of Man: maximum of 40 pence per mile;
- Mileage incurred in the United Kingdom: maximum of 57 pence per mile (up to 2,000cc) or 79 pence per mile (over 2,000cc);
- Photocopying performed in PricewaterhouseCoopers offices located in the United Kingdom: 3 pence per sheet copied (only charged for circulars to creditors and other bulk copying); and
- Faxes sent from the PricewaterhouseCoopers office located on the Isle of Man: £2 per sheet sent.

All other disbursements are reimbursed at cost.