

APPLICATION NOTICE (general)

Claim No.

CHP09/0037

**IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN  
CIVIL DIVISION**

<b>CHANCERY</b>	<b>PROCEDURE</b>
Parties	
<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">                 MICHAEL SIMPSON as Liquidator of Kaupthing Singer &amp; Friedlander (Isle of Man) Limited (In Liquidation)             </div>	Claimant(s)
<div style="border: 1px solid black; padding: 5px;">                 (1) THE ISLE OF MAN FINANCIAL SERVICES AUTHORITY as Scheme Manager of the Depositors Compensation Scheme                   (2) ISLE OF MAN TREASURY             </div>	Defendant(s)
Full name of applicant (identifying if you are the claimant or defendant)	
Michael Simpson as Liquidator of Kaupthing Singer & Friedlander (Isle of Man) Limited (In Liquidation)	
Claimant	
Applicant is	
<ul style="list-style-type: none"> <li>• the/ one of claimant(s) <input checked="" type="checkbox"/></li> <li>• defendant(s) <input type="checkbox"/></li> <li>• other (specify)</li> <li>• seeking a hearing of more than 2 days <input type="checkbox"/> (additional fee required)</li> </ul>	
Description of order applied for	
(use numbered paragraphs)	
1. A direction pursuant to section 185(3) of the Companies Act 1931 as to whether the provisions of section 248 of the Companies Act 1931 ("Section 248") (and therefore the relevant provisions of law of bankruptcy in the Isle of Man) apply to the liquidation of Kaupthing Singer & Friedlander (Isle of Man) Limited (in liquidation) ("KSFiom"), even after its creditors have been paid the whole of their proved debts for the period up 9 October	

2008.

2. Subsequently, directions as to the calculation of interest payable to the unsecured creditors of KSFIOM for the period after 9 October 2008, pursuant to the direction given under paragraph 1 above, EITHER -

2.1 if the provisions of Section 248 apply to the liquidation of KSFIOM for the period after 9 October 2008; OR

2.2 if Section 248 no longer applies to the Liquidator of KSFIOM for the period after 9 October 2008.

3. An initial direction that notice of this application may be given by the Claimant to the unsecured creditors of KSFIOM by way of an email and/or letter to the last known email and/or physical address of each unsecured creditor whose proof of debt has been admitted, which will -

(i) direct them to a copy of this application, together with supporting witness statement(s) and skeleton argument(s) upon KSFIOM's website; and

(ii) inform them that if, for any reason, a creditor cannot access KSFIOM's website, or download material from it, should the creditor wish to do so, the Claimant will provide a copy of this Application, together with supporting witness statement(s) and skeleton argument(s) by post, upon request.

4. A direction that:

(i) each email and/or letter sent by the Applicant pursuant to paragraph 3 above shall inform the unsecured creditor concerned that if they wish to do so they may apply to be made a party to this application, and submit an answer and/or witness statement and/or skeleton argument in relation to the directions sought at paragraph 1 above;

(ii) KSFIOM's website shall inform the unsecured creditors of KSFIOM generally that if they wish to do so they may apply to be made a party to this application and submit an answer and/or witness statement and/or skeleton argument in relation to the directions sought at paragraph 1 above.

State briefly why the order is applied for

(use numbered paragraphs)

1. The creditors of KSFIOM, including the unsecured creditors, have been paid 100 pence in the pound in relation to the amounts admitted pursuant to the proof of debt lodged by each creditor.
2. Surplus assets remain in the liquidation of KSFIOM from which interest can be paid to its unsecured creditors.
3. It is unclear whether the provisions of Section 248 still apply to the liquidation of KSFIOM, in the circumstances set out at paragraph 1, above. If Section 248 continues to apply, then pursuant to Section 23(4) of the Bankruptcy Code 1892 ("Section 23(4)") unsecured creditors will receive interest at 4% per annum on the amount of their proved debts for the period from 9 October 2008. However, directions are also sought as to the method of calculating interest if Section 23(4) continues to apply, and in particular, whether interest is calculated on a daily basis at 4% from 9 October 2008, until the surplus assets are exhausted (estimated between 112 days and 126 days from 9 October 2008), or at 4% from the 9 October 2008 until the date that this Application is determined, and then divided pro rata amongst the unsecured creditors
4. However, if the provisions of Section 248 no longer apply, then the provisions of Section 23(4) will not apply to the calculation of interest to be paid to the unsecured creditors of KSFIOM, who will be remitted to their rights under their contracts with KSFIOM, even though the surplus assets will be wholly inadequate to pay such contractual rights. In these circumstances the Court's direction will be sought as to the calculation of interest pursuant to the contractual rights of the unsecured creditors.

State how the applicant wishes the application to be dealt with:

- At a hearing       Without a hearing  
 At a telephone hearing


How long is the hearing expected to last?

2 days                      hours                      minutes

Is this time estimate agreed by all the parties?    Yes        No   

Give details of any fixed trial date or period

The information relied on in support of this application is in All evidence must be typed	the attached witness statement <input checked="" type="checkbox"/> the statement of case/particulars of claim <input type="checkbox"/> / defence <input type="checkbox"/> * <input type="checkbox"/> the evidence set out below <input type="checkbox"/> *Indicate as appropriate
Evidence in support (use numbered paragraphs) 1. Witness Statement of Michael Simpson dated 20 June 2016.	
If you need to continue on a separate sheet please use the prescribed form – 'HCC CONTINUATION SHEET'	

Statement of truth [I believe <input type="checkbox"/> ] [The applicant believes <input checked="" type="checkbox"/> ] that the facts stated in this section (and any continuation sheets) are true. Indicate as appropriate.	
Signed	 (type or print full name here) SETH FARGHER CAINE [Applicant <input type="checkbox"/> ] [s advocate <input checked="" type="checkbox"/> ] [Litigation friend <input type="checkbox"/> ] indicate as appropriate
Name of applicant's advocate's firm Cains Advocates Limited	
Position or office held (if signed on behalf of a company or other corporation):	
Date 22 June 2016	
Applicant or applicant's advocate's address in the Isle of Man (including	Telephone no. 638356

HC8A

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postcode) to which documents should be sent:  Cains Advocates Limited Fort Anne Douglas Isle of Man IM1 5PD	Fax no. (if appropriate) 638333
	E-mail (if appropriate) seth.caine@cains.com
	Reference (if any) 22077.0016/sfc

AMENDED 26 JULY 2016 PURSUANT TO RULE 6.37(1) OF THE RULES OF THE HIGH COURT OF JUSTICE 2009

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Notes for guidance

Court staff cannot give legal advice. If you need information or advice on a legal problem you should contact an advocate.

Court fee

A court fee may be payable, depending on the type of application you are making. Court staff can give you information about fees.

Completing the form

Heading

Enter the claim number, procedure and parties as on the claim form.

Description of order

Set out what order you are applying for e.g. to set aside a judgment entered against me on (date).

A typed draft of the order must be attached to the application.

Reasons for order

Set out the reasons why you are applying for the order.

Hearing

Most applications will require a hearing and you will be expected to attend. The court will allocate a hearing date and time for the application. Please indicate in a covering letter any dates that you are unavailable, with reasons, within the next 8 weeks.

The court will only deal with the application without a hearing in the following circumstances.

- where all the parties agree to the terms of the order being asked for;
- where all the parties agree that the court should deal with the application without a hearing, or
- where the court does not consider that a hearing would be appropriate.

If your application includes a request that the application or part application be dealt with by a telephone hearing the court may grant or refuse such request.

Duration of hearing

If you do not know how long the hearing will take, do not guess but leave these boxes blank.

For a hearing of more than 2 days an additional fee is required. Court Office staff can tell you how much you have to pay. Alternatively, you can view the current Fees Order at [www.courts.im](http://www.courts.im).

Information relied on

In this section set out the information you want the court to take account in support of the application you are making.

- If you wish to rely on a witness statement, tick the appropriate box and attach the typed statement to the application notice. A witness statement form is available on request from the Courts Office.
- If you wish to rely on a statement of case or if you intend to rely on your particulars of claim or defence in support of your application, tick the appropriate box.
- If you wish to rely on written evidence on this form, tick the third box and enter details in the space provided. You must also complete the statement of truth. Proceedings for contempt of court may be brought against a person who signs a statement of truth without an honest belief in its truth.

Signature

The application must be signed and include your current address and contact details. If you agree that the court and the other parties may communicate with you by telephone, fax or email, complete the details before taking or sending the form to the Courts Office, Isle of Man Courts of Justice, Deemsters Walk, Bucks Road, Douglas Isle of Man IM1 3AR.

Address

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Insert in this box the address at which you wish to receive documents. The address must be in the Isle of Man. If you are willing to receive documents by fax or e-mail, add details.  
Service of application notice

You must take or send a copy of the application notice, with a copy of the draft order and of any witness statement, to every other party.

If a respondent resides outside of the Isle of Man service must be effected pursuant to any relevant order after application is made to the court. Use form HC8C Application Notice (permission to serve outside the jurisdiction) to make your application.

What happens next

If you have asked for the application to be dealt with without a hearing, the Courts Office will refer it to a judge, who will decide whether it is suitable for consideration without a hearing, and may give directions as to the filing of evidence.

If you have asked for a hearing, or the judge decides that the application is not suitable for consideration without a hearing, the Courts Office will notify you of the time and place of the hearing.

You must then notify the other parties of the time and place of the hearing. If the judge directs that any other person should be served with the application, you must also notify them of the time and place of the hearing, and take or send a copy of the application notice, with a copy of the draft order and of any witness statement, to them.