

KAUPTHING SINGER & FRIEDLANDER (ISLE OF MAN) LIMITED (IN LIQUIDATION)

On 27 May 2009 the High Court of Justice of the Isle of Man made a Winding Up Order placing Kaupthing Singer & Friedlander (Isle of Man) Limited into liquidation. Michael Simpson and Peter Spratt were appointed as Joint Liquidators at the first meeting of creditors held on 7 July 2009. Peter Spratt retired as Joint Liquidator on 9 June 2015.

Reference: KA004/MS/lh

9 August 2016

Dear Sir/Madam

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

I write to you as the Liquidator of KSFIOM.

As you are aware, the unsecured creditors of KSFIOM have now been paid the full amount of their proofs of debt.

There are still some assets of KSFIOM that I am in the process of collecting, and once that process is complete I anticipate that there will be a small surplus from which I can pay interest to creditors. I anticipate that the amount of the surplus will be approximately £15,000,000 (although there are considerable fluctuations in currency exchange rates at present, and some of the assets to be collected are in Euros). Accordingly, the amount of any interest to be paid will be quite small.

However, an issue has arisen as to the correct method of calculating and paying interest out of the surplus. I have been advised that interest should be calculated and paid in accordance with the provisions of Section 23(4) of the Bankruptcy Code 1892, with simple interest being calculated on a day to day basis from 9 October 2008 (the date that the liquidation started) until the surplus runs out. On this basis the creditors would be likely to receive approximately 150 days interest at 4% on the amount in their proofs of debt.

There is an alternative argument, however, that simple interest should be calculated at 4% per annum for the period from 9 October 2008 until the current date, with the available surplus being shared amongst the creditors pro-rata to the amount that they would have received had there been a sufficient surplus to pay simple interest at 4% for the whole period.

Finally, there is a further alternative argument that Section 23(4) does not apply at all, and that KSFIOM should now be treated as solvent (even though there are wholly insufficient assets to pay contractual interest in full for the period from 9 October 2008 until the present date).

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**KAUPTHING SINGER & FRIEDLANDER (ISLE OF MAN) LIMITED
(IN LIQUIDATION)**

In these circumstances I have applied to the Isle of Man High Court for guidance and directions as to how interest should be paid from the surplus. I **enclose** a copy of my Application to the Court, and my Witness Statement dated 20 June 2016 which sets out the background. It should be noted that the amount of the surplus referred to at paragraph 19 of my Witness Statement, which was signed prior to the Brexit vote, is less than the amount referred to in this letter. The difference is due to recent current exchange rate fluctuations. As a result of the anticipated increase in the surplus, the amount of days within which the surplus will be exhausted if interest is calculated and paid in accordance with paragraph 20 of my Witness Statement is likely to increase from 112/126 days to 150 days.

At an initial hearing on 8 July 2016, Deemster Corlett gave directions for the hearing of my Application, and I **enclose** a copy of the Deemster's Directions Order.

You will note that the Deemster has directed me to send this letter to you, and to draw your attention to the Skeleton Argument contained on the website for KSFIOM at www.kaupthingsingers.co.im, which sets out in more detail the legal issues which need to be clarified in relation to the payment of interest. If you do not have access to the internet, or cannot download a copy of the Skeleton Argument, I will forward a copy to you by post, upon request.

In the light of the three alternative arguments as to how interest should be calculated and paid, the Deemster also directed that three separate Counsel should be appointed, each of whom will put forward one of the arguments. Accordingly, if you prefer one of the arguments to the other two, but do not wish to take an active part in the Application, then you can be sure that that argument will be presented to the Court, without any cost to yourself. Any particular points that you may wish to make to the Counsel concerned can be forwarded via my office.

The Deemster has also directed that should you wish to become a party to my Application to the Court (for example, because there is a fourth alternative argument that you wish to have advanced, which is not covered by one of the alternative arguments set out above), then you should inform me by email or letter to be received by 16 September 2016. Please include in your email or letter a summary of any fourth alternative argument that you wish to advance. Please note that you are not being asked to vote upon which method of calculating interest should be followed. That is a matter of law which will be determined by the Court. Rather, the purpose of this letter is to give you the opportunity to become a party to the application, should you wish to do so.

I will inform the Deemster at a hearing on 12 October 2016 of the identity of any creditors who have informed me that they wish to become a party to the Application, and to take part in its hearing. The Deemster will then give further directions leading to the final hearing of the Application.

My contact details are as follows –

Email: ksf@iom.pwc.com

Post: **PO Box 197, Douglas, Isle of Man, IM99 1SN**

Yours faithfully

Michael Simpson
Liquidator of Kaupthing Singer & Friedlander (Isle of Man) Limited (In Liquidation)

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