

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

Liquidator's and Deemed Official Receiver's  
final report to creditors

6 August 2020



## ***Final Highlights***

- *Final distribution paid 31 March 2020*
- *Liquidation to be brought to a close*

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## ***Section***

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## **1. Introduction**

1. 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 of Kaupthing Singer & Friedlander (Isle of Man) Limited (“the Company”) 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”). On 9 June 2015 Peter Spratt retired from PwC and therefore stood down as Joint Liquidator and from that date Mike Simpson has continued as sole Liquidator of the Company (“the Liquidator”). Reference to ‘JLs’ refers to the joint Liquidators until 9 June 2015 and to Mike Simpson as sole Liquidator after that date.

The purpose of this document is to provide creditors with:

- a report on the period of the Liquidation;
- a summary of the costs and disbursements incurred by the JLs; and
- a final receipts and payments account.

## **2. Committee of Inspection (“the Committee”)**

- 2.1 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. The following seven creditors were selected:
  - Axa (Isle of Man) Limited (now called Utmost Limited) (originally represented by Neill Angus, now represented by Neil Cowley);
  - Simon Bessant;
  - Gavin Brake;
  - Stuart Roberts;
  - Royal Skandia Life Assurance Limited (previously called Old Mutual International Isle of Man Limited and now called Quilter International Limited) (originally represented by John Hollis, now represented by Joly Hemuss);
  - Singer & Friedlander (Isle of Man) Limited Retirement Benefits Scheme (represented by Mark Kiernan); and
  - Peter Wakeham.
- 2.2 The Committee’s role is governed by the Companies Act 1931 (“the Act”) and in the Companies Winding up Rules 1934 (“the Rules”).
- 2.3 S.184 of the Act sets out the powers which can only be exercised by the Liquidator 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.

- 2.4 Further powers noted in s.184 include the power to pay any class 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 Liquidator would need the sanction of the Committee for any such settlement).
- 2.5 The role of the Committee was to support the Liquidator 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 Liquidator shall have regard to any directions given by resolution of the creditors or by the Committee.
- 2.6 The Committee formally met on seven occasions and there was an ongoing dialogue by telephone and email between the Liquidator and the Committee. The flow of information occurs both ways, with members of the Committee raising points for consideration by the Liquidator as well as the PwC team providing information to the Committee for review and comment.
- 2.7 The Committee and the Liquidator’s objective was to achieve the optimum return for creditors within the statutory framework. The Liquidator consulted the Committee as and when he considered it appropriate. An example of this is in respect of legal action to recover monies owed by borrowers. Although the Liquidator has taken action against the individual borrowers, the Committee’s approval was sought before such action was launched.

### 3. Dividends Paid

- 3.1 The following capital dividends have been paid:

Date dividend paid	p in the £
4 September 2009	24.8
8 December 2009	15.2
9 July 2010	11.1
15 December 2010	10.0
8 April 2011	12.5
11 November 2011	9.6
15 June 2012	7.8
28 June 2013	4.8
12 September 2014	2.2
28 November 2014	2.0
<b>Total</b>	<b>100.0</b>

3.2 As set out in Section 3.1 above, the JLs have achieved a return of 100p in the £ with the payment of the tenth dividend on 28 November 2014 based on the claims accepted in the liquidation. This enabled the Liquidator to pay some interest on the claims. On 31 March 2020, a final dividend was paid, consisting of deferred interest, where applicable, and statutory interest which equated to 1.608%.

3.3 The unclaimed dividend payments will be paid to the Isle of Man Court. These payments are referred to as bona vacantia payments. If you are due a dividend payment directly from the Liquidator and you have not received this payment, then please contact the Isle of Man Government using the details below:

Address: Financial Governance Division, 1st Floor, Government Offices, Bucks Road, Douglas, Isle of Man, IM1 3PU

Website: <https://www.gov.im/about-the-government/departments/the-treasury/financial-governance-division/bona-vacantia/>

3.4 The rules for calculating interest in an Isle of Man insolvent liquidation are not straightforward and the Liquidator had to apply to the Isle of Man High Court for directions. The Deemster's first judgment was delivered on 16 June 2017 and a copy was placed on the website. The Deemster determined that insolvency rules apply to the calculation of interest, which should be pro rated over the term of the liquidation.

3.5 The Liquidator applied to the Court for further directions in respect of matters which need to be dealt with in order to make the final distribution and bring the liquidation to a close. These further matters relate to the Depositors' Compensation Scheme and the Early Payment Schemes. A number of unsecured creditors of KSFIOM claimed in the Early Payment Scheme and/or the Early Payment (No. 2) Scheme (collectively "the EPS") administered by the Isle of Man Treasury and/or in the Depositors' Compensation Scheme ("DCS") managed by the Isle of Man Financial Services Authority. In return for payments from the EPS and/or the DCS such unsecured creditors assigned their rights to prove in the liquidation of KSFIOM to the Treasury and/or the DCS. The Liquidator made an Application to the Isle of Man High Court dated 3 July 2018 seeking directions that he should pay statutory interest to the DCS in respect of unsecured creditors who assigned to the Treasury and/or the DCS their right to prove in the liquidation of KSFIOM in return for EPS/DCS payments. The Court Hearing took place on 30 October 2018 and a further order was issued. The order instructed the Liquidator to pay statutory interest and/or deferred interest due to all depositors who claimed in the DCS and/or the EPS to the DCS, and statutory interest and/or deferred interest to all creditors who did not claim in the DCS or the EPS to those creditors. Regarding life insurance bondholders who claimed in the EPS, the Liquidator paid statutory interest direct to the insurance companies apart from amounts due to the Isle of Man Treasury in respect of its' admitted proof of debt in respect of assignments made to it as set out in section 40 of the skeleton argument filed in support of the Liquidator's application to the High Court and published on the website on 15 August 2018.

3.6 I have referred in previous reports to freezing orders in respect of former KSFIOM customer accounts. The Isle of Man Attorney General claimed that the money held in these accounts should be confiscated. I was advised that the orders were invalid and, even if they were valid, the accounts cannot be confiscated as no proof of debt was received prior to the cut off date. However, it became clear that the Court would be sympathetic to their claim and, in order to minimise costs and avoid further delay, I agreed to accept their claim at £345k, being 26% of the amount they initially claimed.

#### 4. **Cut-off date fixed for claiming in the liquidation**

4.1 The cut-off date by which creditors in KSFIOM (including depositors who did not claim in the Depositors' Compensation Scheme) had to prove their debts in the liquidation of KSFIOM, including any appeals, was fixed by the Isle of Man High Court as 16 November 2018.

4.2 Creditors who had already had their proof of debt admitted by the Liquidator did not need to do anything further unless they claimed under the Early Payment Scheme and/or the Early Payment (No. 2) Scheme and subsequently received dividends direct from the Liquidator. These claimants received their final dividend from the DCS Administrator.

## 5. **Dissolution**

5.1 As the liquidation has now been completed, I will be applying to Court for my release as the Liquidator. A copy of the final Court order will be posted on the website <https://kaupthingsingers.co.im/> once this has been granted.

Mike Simpson  
Liquidator and Deemed Official Receiver

## 2. A combined Final Receipts and Payments Account

	Summary of the Directors' Statement of Affairs as at 9 October 2008		Receipts and Payments 9 October 2008 to 26 May 2009			Liquidator's estimated outcome			
	Book value	Estimate to realise	Receipts and Payments 9 October 2008 to 26 May 2009	Receipts and Payments 27 May 2009 to Final	Total Receipts and Payments	High Est. future	Low Est. future	Total High	Total Low
	£'000	£'000	£'000	£'000	£'000	£'m	£'m	£'m	£'m
Cash at bank on appointment	108,916	108,664	115,459	918	116,377	-	-	116.4	116.4
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	388,178	398,610	-	-	398.6	398.6
Less: Cost of FX hedging (EUR & USD)	-	-	-	(2,038)	(2,038)	-	-	(2.0)	(2.0)
Interest and fee income on loans	-	-	6,960	29,922	36,882	-	-	36.8	36.8
Collateral shares	-	-	6,271	114,851	121,122	-	-	121.1	121.1
Net balance due from KSFUK	320,722	Unknown	-	219,041	219,041	-	-	219.0	219.0
Property, equipment and other sundry assets	1,489	142	8	264	272	-	-	0.3	0.3
Net balance due from Kaupthing Holdings Ltd	206	206	-	-	-	-	-	-	-
Net balance due from Kaupthing hf	94	94	-	-	-	-	-	-	-
Parental guarantee from Kaupthing hf	Unknown	Unknown	-	895	895	-	-	0.9	0.9
Interest income on cash in hand since appointment	-	-	648	1,118	1,766	-	-	1.8	1.8
<b>Total assets</b>	<b>901,016</b>	<b>535,580</b>	<b>158,041</b>	<b>788,460</b>	<b>946,501</b>	<b>-</b>	<b>-</b>	<b>946.5</b>	<b>946.5</b>



	Summary of the Directors' Statement of Affairs as at 9 October 2008		Receipts and Payments 9 October 2008 to 26 May 2009	Receipts and Payments 27 May 2009 to Final	Total Receipts and Payments	Liquidator's estimated outcome			
	Book value £'000	Estimate to realise £'000	£'000	£'000	£'000	High Est. Future £'m	Low Est. Future £'m	Total High £'m	Total Low £'m
<b>Total assets</b>	<b>901,016</b>	<b>535,580</b>	<b>158,041</b>	<b>788,460</b>	<b>946,501</b>	-	-	<b>946.5</b>	<b>946.5</b>
Less Provisional Liquidators' costs	-	-	-	(3,622)	(3,622)	-	-	-	-
Less Liquidators' costs	-	-	-	(12,545)	(12,545)	-	-	-	-
Less legal and other professional fees	-	-	(1,024)	(6,537)	(7,561)	-	-	-	-
Less employees, rent, utilities and other costs	-	-	(1,712)	(2,654)	(4,366)	-	-	-	-
<b>Total costs and expenses</b>	-	-	<b>(2,736)</b>	<b>(25,358)</b>	<b>(28,094)</b>	-	-	<b>(28.1)</b>	<b>(28.1)</b>
<b>Total assets available for preferential creditors</b>	<b>901,016</b>	<b>535,580</b>	<b>155,305</b>	<b>763,102</b>	<b>918,407</b>	-	-	<b>918.4</b>	<b>918.4</b>
Amounts paid to preferential creditors	(1,654)	(1,654)	-	(281)	(281)	-	-	(0.3)	(0.3)
<b>Surplus available to ordinary unsecured creditors</b>	<b>899,362</b>	<b>533,926</b>	<b>155,305</b>	<b>762,821</b>	<b>918,126</b>	-	-	<b>918.1</b>	<b>918.1</b>
Distributions of capital paid 100p in the £	-	-	-	(900,163)	(900,163)	-	-	(900.2)	(900.2)
Distribution of deferred and statutory interest	-	-	-	(17,703)	(17,703)	-	-	(17.7)	(17.7)
Bona vacantia payment	-	-	-	(260)	(260)	-	-	(0.2)	(0.2)
<b>Cash at hand</b>	-	-	<b>155,305</b>	<b>(155,305)</b>	-	-	-	-	-
<b>Total ordinary unsecured creditors</b>	<b>896,014</b>	<b>896,014</b>	<b>900,163</b>	<b>900,163</b>	<b>900,163</b>	-	-	<b>900.2</b>	<b>900.2</b>

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

### **3. *Report on the Liquidation for the period***

#### **1. Role of the Liquidators**

1.1 The role and powers of Liquidators were laid out in the Order under which they are appointed by the Court and were 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**

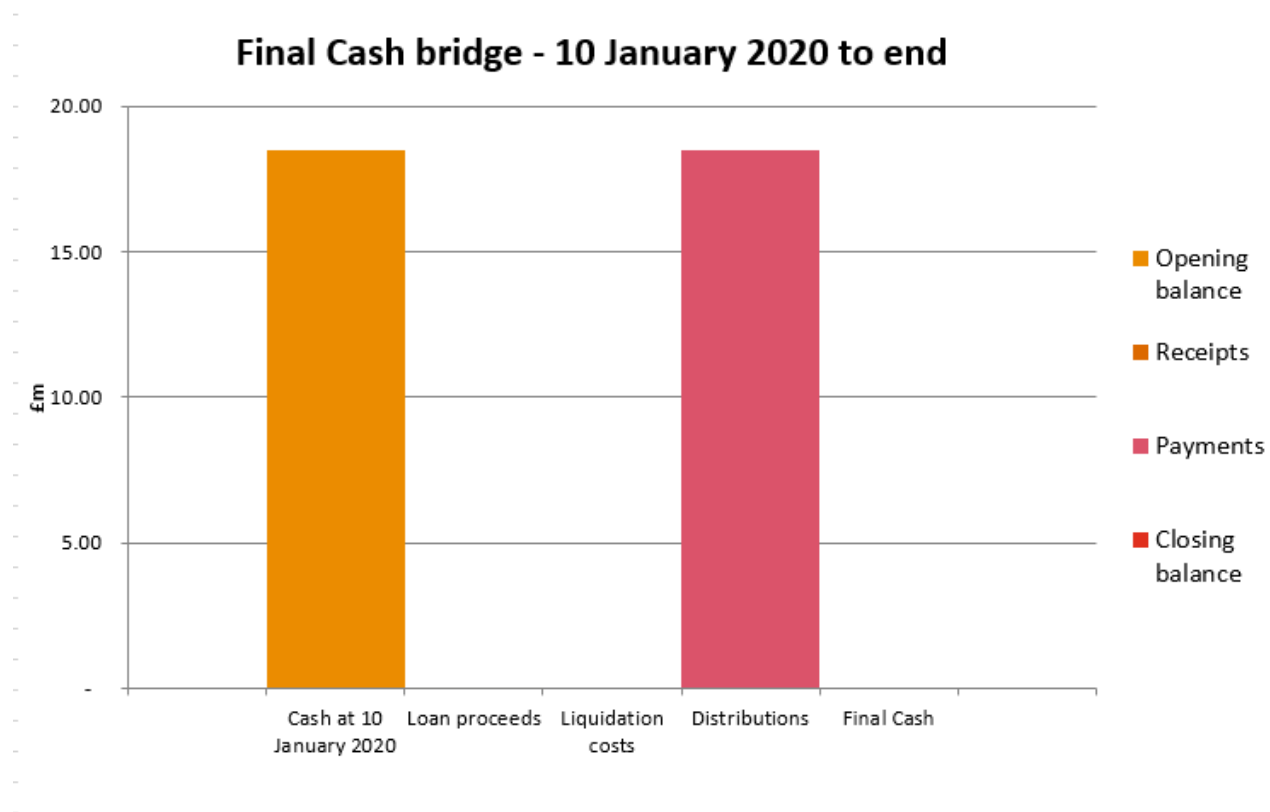
2.1 The receipts and payments in the liquidation are set out on pages 8 to 9. This shows total receipts of £946.5m, total expenses of £28.1m, and a total dividend payment of £918.1m.

2.2 All balances were held in Sterling as at the timing of the final dividend.

### 3. Comments on Assets and Receipts

#### 3.1 Cash at bank and cash received in the liquidation since 10 January 2020

Cash realised is £946.5m.



#### 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 or for future interest income.

4.2 At 9 October 2008, there were 180 loans outstanding, with a Sterling value of £416.0m (at 9 October 2008 exchange rates). Actual loan receipts were £398.4m. The means by which loans have been repaid are as follows:-

<b>Overall Summary</b>	<b>Number of facilities</b>	<b>Value £m</b>	<b>%</b>
Loan Book at 08/10/2008	180	416.0	100.0%
Capital Repaid	(180)	(398.4)	(95.8%)
Set-off	-	(15.2)	(3.7%)
Written-off	-	(16.4)	(3.9%)
FX Fluctuation	-	14.0	3.4%
<b>Loan Book at 09/01/2019</b>	<b>0</b>	<b>0.0</b>	<b>0.0%</b>

<b>Sources of repayments</b>	<b>Amount £m</b>	<b>%</b>
Refinancing	169.4	42.5%
Borrowers' own resources	138.1	34.7%
Enforcement action	90.9	22.8%
<b>Total</b>	<b>398.4</b>	<b>100.0%</b>

## 5. Amounts owed from KHF

- 5.1 There were 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 showed an amount owed to KHF of £185.4m and an amount owed from KHF of £185.5m. Having sought legal advice on the matter it was determined that these balances set off against each other.

## 6. Parental guarantee

- 6.1 A provisional claim under the guarantee in the sum of £960m was lodged with the Resolution Committee to protect the Company's position. However the quantum of the claim against KHF under the guarantee has been adjusted continuously to reflect the actual shortfall position following realisation of the Company's assets and the accrued rights of the creditors of the Company to interest on their claims under Isle of Man insolvency law. The value of the claim was ultimately agreed at £3.2m.

KHF agreed a composition with their creditors, whereby creditors received 30% of the value of their agreed claims, as follows;

- Cash 8.3%
- Shares in Kaupthing 0.5%
- Kaupthing convertible notes 21.2%

All amounts receivable from KHF have now been realised.

## 7. Investigation

The JLS have conducted an investigation into the circumstances leading up to the directors' decision to seek a winding up order in respect of the Company in October 2008, and the contributory factors. Reports on the investigation and potential follow up actions have been made to the Committee of Inspection. On the basis of the latest advice on these matters, it appeared most unlikely that there would be any value for creditors in pursuing the potential claims.

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

The Scheme Manager of the Depositors Compensation Scheme (“DCS”) maintained his position that he did not allow re-direction of surplus payments in the DCS due to the risk of error.

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

In order to assist the life companies and their policyholders, I applied to Court and received an Order which permitted me to accept assignments from the life companies without the need for a Court Order. This Order did not compel the life companies to agree to requests from their policyholders for assignment, nor did it oblige me to approve them, however it did remove the final costly step from the assignment process.

## 9. **Creditors**

### 9.1 *Amounts due to preferential creditors*

Preferential creditors were paid in full in June 2010. The total amount paid was £281k. 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.

### 9.2 *Amounts owed to unsecured creditors*

At the Final Date for Proving I admitted 8,587 claims (including DCS claims) with an admitted value of £900.6m. The final total for unsecured creditors at the time of the final dividend was £900.2m.

## 10. **Costs and operational issues**

### 10.1 *Costs of the Joint Liquidators*

The time costs of the JLs accrued were £10.4m net of VAT. As there will be no more fees charged by the Liquidator, the previous table of costs has not been repeated. The fees of the JLs have been approved by the Committee, and £10.4m net of VAT has been paid to PwC. All costs incurred pre 27 May 2009, including fees of £3.0m net of VAT have been paid following the approval of the Court.

### 10.2 *Legal and other professional costs*

The details of legal and other professional costs, totalling £6.4m, net of VAT, include legal costs of £6.0m, net of VAT.

### 10.3 *Employee costs*

At 9 October 2008, the Company employed 64 staff. No bank staff have been employed since 30 June 2012.

10.4 *Premises rent and other costs*

The Company occupied half a floor at Samuel Harris House, 5-11 St. Georges Street, Douglas, Isle of Man, under a re-negotiated lease at a substantially reduced annual cost. The lease expired on 12 August 2012 and the liquidation was then run from the offices of PwC at Sixty Circular Road, Douglas, Isle of Man.

Other costs included IT costs such as software licences and maintenance, and other operating costs such as postage and stationery.

10.5 *VAT*

VAT of £2.4m has been recovered over the period since 9 October 2008. The Company was partially exempt for VAT purposes.

## **4. Summary of the Joint Liquidators time costs and disbursements**

### **1. Remuneration of the Liquidator for the period**

- 1.1 The time of the Liquidator was charged on a time costs basis and was subject to approval by the Committee. At the date of this report the JLs have received £13.4m (net of VAT) in fees and £278.2k (net of VAT) in disbursements for the period 9 October 2008 to 9 January 2019 (the latest date to which costs have been approved). The fees relating to the period of provisional liquidation have been through the arbitration process and have been approved by the Court and paid. The Liquidator's final invoice was raised and paid with the approval of the Committee so that the VAT thereon could be recovered in time to be included in the final distribution.

### **2. Description of work carried out during the period**

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

- Communication with depositors and other creditors
- Team management – team meetings, supervision of team
- Accounting – book keeping, reconciliations, accounting records
- Statutory and other compliance – court hearings, regulatory requirements
- Operational issues/suppliers – IT issues, etc.
- Depositor queries – written queries by post or by email, telephone calls to the Liquidator, website updates
- Creditor distributions, reconciling claims with DCS and EPS, catch-up payments
- Tax – Submission of income tax and VAT returns in the Isle of Man
- Calculation of interest payable – Data analysis, Court hearings and discussions with legal team