
Stanford International Bank Limited (In Liquidation)

Update to Creditors

July 2020

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Introduction

- 1.1 The purpose of this report is to update the creditors on developments in the liquidation of Stanford International Bank Limited (SIB). The last update report was posted to the liquidation website, www.sibliquidation.com, in January 2020. This report focusses on developments that have occurred since that report.
- 1.2 We continue to post updates on important developments on the liquidation website as they occur.

Distributions

- 2.1 Two distributions totalling 1.6% of victim claims have been made from the SIB liquidation estate to date.
- 2.2 Following the Privy Council decision on clawbacks in December 2019 we have released over US\$20 million of distribution payments that had been held back.
- 2.3 Further distributions will depend on realisations from the Swiss frozen funds or from litigation. It is not possible to predict the timing of any such recoveries.
- 2.4 Unclaimed distributions total US\$15.8 million. These amounts represent distributions owing to creditors who have either not banked their cheques, may not have received their cheques or whom we have been unsuccessful in contacting because their contact details have changed and they have not provided us with updated ones. It is to be expected in a long running liquidation with over 17,000 creditors that there will be some creditors who for a variety of reasons we are unable to successfully distribute to. While reasonable efforts will be made to make sure creditors receive their distributions, it will inevitably be the case that there will be some unclaimed distributions at the end of the process. These unclaimed distributions will have to be dealt with in due course and we are hopeful that they will simply be able to be re-distributed amongst creditors whom we have been successful in contacting.

Updates on Recovery Efforts

- 3.1 The focus of our recovery efforts continues to be the pursuit of the estate's claims against the three banks being The Toronto-Dominion Bank ("TD"), HSBC and Societe Generale Private Banking (Suisse) SA ("Soc Gen"). As previously advised, achieving a successful outcome from these litigation claims provides the only way to make any sizeable distribution to the victims.
- 3.2 The US Receiver's estate, in conjunction with the Official Stanford Investors Committee, is also pursuing claims against the same banks as our estate plus Trustmark National Bank and Bank of Houston. These claims are proceeding before the United States District Court for the Northern District of Texas. The US Receiver's bank claims are separate and distinct and are in no way connected to our bank claims. It is our understanding that if the US Receiver's bank claims are successful this will also result in distributions to the victims to the extent their claims have also been agreed with the US Receiver. This report does not comment on the progress of the litigation claims being pursued by the US Receiver's estate.

Claims against The Toronto-Dominion Bank

- 4.1 As previously advised our trial against TD is scheduled to start on 11 January 2021 and run for a period of approximately 3 months. We have continued to hold this date in the Court's calendar despite the interruptions caused by COVID-19. Depending on restrictions that may arise from COVID-19, the trial may be partially virtual. The Ontario courts are well equipped should this occur, and we do not currently anticipate any adjournment.
- 4.2 As part of the lead up to trial the Ontario court had directed that we attend a mediation with TD. That mediation took place on 20 May 2020 and did not result in a settlement. Our focus and that of our legal team is now to prepare for trial.
- 4.3 Preparing for the trial of this matter is a significant undertaking. A twelve-week trial is very long. It reflects the complexity of the issues the court will have to consider as well as the volume of evidence that will be part of the trial. The trial will also include live fact and expert witness testimony, including cross examinations. All expert reports will be presented and considered at trial along with the consideration of many legal and evidentiary issues. The trial will be hard fought on both sides because the amount at stake is significant.
- 4.4 In addition to preparing for and attending the mediation with TD and preparing for the trial, other workstreams that we and our lawyers have had to deal with as part of this litigation claim since our last creditor report include the following:
 - 4.4.1 The Joint Liquidators initiated a mediation-arbitration process to challenge certain answers given by TD arising from examinations for discovery that the Joint Liquidators found to be inadequate. This challenge was heard on 21 April 2020. As a result, TD was required to clarify and add to previously provided pre-trial discovery answers.
 - 4.4.2 New documents were disclosed to the Joint Liquidators by TD. The Joint Liquidators determined that continuing the examination for discovery of TD's representative was warranted. This continued examination for discovery occurred on 21 June 2020.
 - 4.4.3 The Joint Liquidators continued to be engaged regarding TD's demands for further written answers from the former Joint Liquidators. TD has since abandoned its Ontario court motion to examine the former Joint Liquidators in person and this process is now complete.
 - 4.4.4 The Joint Liquidators delivered five reply expert reports, including a reply report addressing TD's damages report received by the Joint Liquidators in March 2020. The preparation and delivery of all such reply expert reports was another significant work stream milestone in the Joint Liquidators' ongoing trial preparation process.
 - 4.4.5 TD sought and obtained a Letter of Request from a U.S. judge in the U.S. Action requesting that a judge in Ontario order the Joint Liquidators, and Marcus Wide (former Joint Liquidator), to be deposed on issues TD alleges are relevant to the U.S. Action. The Joint Liquidators' position is that no such order should be issued on multiple grounds, and therefore a hearing is required before the Ontario judge to address the matter. The hearing is scheduled for 19 August 2020.

Claim against HSBC

- 5.1 We continue to pursue our claim against HSBC seeking damages of at least approximately US\$155 million. The last 6 months has been an active period in this litigation and key developments in this period are summarised as follows.
- 5.2 We had a hearing before the High Court of Justice in London on 5 February 2020. The purpose of this hearing was for the parties to come before the Court to discuss the status of the case and for the Court to make orders as to the next steps in the litigation including the timing by which events must happen up to and including the trial of the matter. The events which must happen before we are ready for trial include (i) disclosure of documents between the parties, (ii) exchange of witness statements, (iii) agreement on issues for experts to opine on, and (iv) agreement on the process surrounding the use of expert opinions at trial. In a case of this nature the disclosure process is a significant undertaking for both parties given the volume of documents to be reviewed and produced as part of this process. The Court has confirmed that the next available date for holding the trial is not until October 2021. The trial is expected to last 5 weeks.
- 5.3 Following the case management hearing in February, HSBC filed an application to strike out SIB's claim and sought to stay the proceedings pending the hearing of HSBC's application to strike out SIB's claim. The court determined the stay application in May 2020 and ordered that the proceedings will be stayed until the strike out application is heard. A stay of the proceedings effectively means that all work streams directed to preparing for trial such as disclosure are put on hold until HSBC's strike-out application is heard and resolved. Our legal team believe there is sufficient leeway in the timetabling of this matter, as determined at the case management hearing, not to impact the October 2021 trial date.
- 5.4 HSBC's strike-out application will be heard before the High Court of Justice in London by way of virtual hearing over two days on 30 and 31 July 2020. This hearing is at the application of HSBC where they are asking the court to dismiss our claims against HSBC because they say that our claims lack merit. For HSBC to succeed at this hearing they must convince the court that our claims have no real prospect of success and are bound to fail. Without waiving privilege in the substance of the advice received, our legal team are well prepared for this hearing and are confident that we are well positioned to convince the court that our claims have merit and should be heard.
- 5.5 We will keep you updated following the outcome of HSBC's strike-out application.

Claim against Soc Gen

- 6.1 As advised in our last report Mr Christophe de Kalbermatten, as the Swiss bankruptcy representative of SIB, filed a claim against Soc Gen in December 2019 in the Court of First Instance of Geneva, Switzerland. The claim is for approximately US\$510 million in damages based on negligence.
- 6.2 A conciliation hearing in respect of this claim was held before the Court of First instance of Geneva in June. At that hearing no settlement could be reached between the parties and the court issued to SIB an authorisation to proceed and to file its full particulars of claim by the second half of October 2020. The full particulars of claim are to be set out in a very detailed document containing the specific details of our claims against SocGen. It is now being prepared by Mr Christophe de Kalbermatten with our lawyers' support in order for it to be filed on a timely basis.
- 6.3 Following the filing of the particulars of claim, the next steps will typically be a direction by the Court to SocGen to file its statement of defence or preliminary objections. This will be followed by an intermediate hearing and a further exchange of briefs before the Court will analyse and hear the evidence in the case. It is difficult to estimate how long this process will take.

Claim against Proskauer Rose

- 7.1 We had a one and a half day hearing before the Eastern Caribbean Court of Appeal (“CoA”) on 10 and 11 February 2020 in which we appealed the decision of the Antiguan Court denying our ability to serve Proskauer Rose LLP (“Proskauer”) outside of Antigua. The issue before the CoA is whether or not Antigua is the most appropriate jurisdiction for our claim against Proskauer.
- 7.2 We are hopeful that we will prevail in the CoA and in the event we are successful then we will be in a position to pursue our claims against Proskauer. We are currently awaiting the decision of the CoA on this issue and unfortunately it is not possible to estimate with any certainty when that decision will be issued.
- 7.3 As previously reported Proskauer applied to the United States District Court for the Northern District of Texas and asked that the US court prevent the Joint Liquidators from bringing the Antiguan proceedings against them on the basis of an asserted extra-territorial application of the Court’s contempt jurisdiction. In January 2020, the US court ruled that it did not have jurisdiction over the Joint Liquidators outside the US and therefore dismissed Proskauer’s request to hold the Joint Liquidators in contempt. Proskauer subsequently appealed the decision to the United States Court of Appeals for the Fifth Circuit and we are currently awaiting the outcome of this appeal.

Recovery of Swiss Assets

- 8.1 Approximately US\$170 million remains frozen in Switzerland.
- 8.2 We recently received a distribution of \$2.2 million from the US Department of Justice (“DoJ”). This amount represents our share of monies recovered by the DoJ in Switzerland as agreed in the Cross-Border Protocol Agreement which we previously entered into with the US Receiver, the DoJ and others (“the Protocol”). This amount will go into a distribution account to be distributed once sufficient funds have been accumulated to enable a further distribution. As previously indicated, we need the distributable funds to in the region of US\$30 million to make it feasible to declare a distribution.
- 8.3 The primary reason for the continuing freeze of the remaining balance is the position being taken by SocGen. Soc Gen argue that they are entitled to hold the remaining funds as a source of payment for the ongoing costs of the legal proceedings they are defending as a result of SIB’s financial collapse, and any awards made against it as a result of those proceedings.
- 8.4 The issue of whether Soc Gen are entitled to continue to hold the remaining funds is being considered by the Swiss Courts. We are currently awaiting decision of the Federal Criminal Court on this issue. We had expected to receive this judgment prior to May 2020; however, it appears that COVID-19 issues have intervened. We continue to wait for this decision, which we now expect to be issued before the end of 2020.
- 8.5 Following receipt of the Federal Criminal Court decision there is one further appeal avenue to the Federal Supreme Court, which is Switzerland’s highest court, to which the parties may be able to appeal. Appeals to the Federal Supreme Court are restricted to questions of law of fundamental importance or where there is particularly important issue for other reasons. In the event that either party seeks to appeal, it is difficult to estimate how long that appeal process would take.

Recoveries from related Stanford companies

- 9.1 I act as Joint Liquidator of each of the following companies jointly with Mr Hordley Forbes, an accountant based in Antigua:
- Stanford Development Company Limited (“SDC”)
 - Maiden Island Holdings Limited (“MIHL”)
 - Stanford Hotel Properties Limited (“SHPL”)
 - Gilbert Resort Holdings Limited (“Gilberts”)
 - Stanford Trust Company Limited (“STC”)
- (collectively “the Companies”)
- 9.2 The Companies were all funded by money diverted from SIB. With the exception of STC the primary purpose of the Companies appears to have been to own real estate in Antigua including the SIB Bank building, the Sticky Wicket Restaurant and Cricket Ground.
- 9.3 The main focus of these liquidations, with the exception of STC, has been to maintain the properties and to market them for sale.
- 9.4 The surplus proceeds from each of these liquidations will ultimately flow up to SIB. US\$11m has been received to date by SIB and as matters stand, we estimate that there will be further receipts totalling approximately US\$4 million with potentially more to come depending on the Colombian litigation and our debt recovery efforts.
- 9.5 A brief update with regards to the status of each of these liquidations follows.

Stanford Development Company Limited

- 10.1 We completed the sale of a bundle of properties including the Sticky Wicket Restaurant, the Cricket Ground, and the Athletic Club in March 2020. This sale achieved net realisations for SDC of US\$3.9 million and SIB of US\$1.8 million. SIB’s realisation represents the proceeds from the sale of the Athletic club which was owned by SIB.
- 10.2 We are in the process of completing a sale of the Sun Printing building for US\$1.5 million. The completion of this sale has unfortunately been delayed by COVID-19 issues, but we are hopeful it will be completed in the near future.
- 10.3 After completion of the above transaction the remaining assets of SDC will consist of one remaining parcel of land with an estimated value of US\$400,000 and debts due to SDC from the Government of Antigua and Barbuda (“GOAB”) totalling approximately EC\$20 million (US\$7.4 million). We are continuing our efforts to try and agree a resolution with GOAB regarding this debt. Whilst we have yet to agree a resolution to the repayment of the GOAB debt in full, GOAB has been helpful to us in facilitating various property transactions and working with us to offset various taxes owed to GOAB on the sale of the properties against the total debt.
- 10.4 We have repaid all of the third-party creditors of SDC in full and all further proceeds received in the liquidation will be distributed to SIB. Amounts to be distributed to SIB in the near future total US\$1.5 million, assuming the Sun Printing property sale completes shortly, with further distributions to SIB being dependent on the timing of the sale of the remaining parcel of land and the recovery of the GOAB debt.

Stanford Hotel Properties Limited

- 11.1 This company's only asset is a parcel of land in Antigua with an estimated value of approximately US\$400,000 and our efforts to sell this are ongoing.

Maiden Island Holdings Limited

- 12.1 As previously reported all assets of MIHL were sold and amounts totalling US\$11 million were received by SIB with a further amount of approximately US\$900,000 to be received by SIB shortly.

Gilbert Resort Holdings Limited

- 13.1 The previous agreement for the sale, mentioned in our last report, did not progress and we subsequently entered into a new agreement for the sale of this asset for US\$1.6 million. This transaction is scheduled to complete in September 2020 and a distribution of the net proceeds, less liquidation costs, will be made to SIB following this.

Stanford Trust Company Limited

- 14.1 STC's primary asset is its investment in a Colombian subsidiary called Stanford S.A. Comisionista de Bolsa (SCB). SCB is in liquidation in Colombia and we continue to liaise with the Colombian liquidator to try and free up the assets for ultimate distribution to SIB as soon as possible.
- 14.2 The bulk of the remaining value in SCB was frozen by Colombian authorities pending the final resolution of legal claims which are being pursued against SCB. The parties bringing the legal proceedings are parties whom SCB referred to SIB to purchase certificates of deposit. We continue to wait for the decision of the final Court in Colombia on this issue. This is disappointing given we have now waited for well over 2 years for this decision. We continue to speak with the Colombian liquidator to attempt to move this process along. If the final court decision is in our favour that will free up approximately US\$4.5 to US\$5 million of value for the SCB liquidation to in turn be distributed to SIB. Unfortunately, the assets of SCB are held in Colombian pesos whose value has continued to deteriorate against the US\$.

SIB Receipts and Payments

- 15.1 We attach a statement of Receipts and Payments as at 30 June 2020 at Appendix A which shows that we currently hold cash on hand totalling US\$45,821,768. This cash balance is held for the following purposes;

	US\$
First and second distribution funds (accrual)	15,852,512
Amounts held to cover the risk of adverse legal costs orders	8,891,631
Available funds for future litigation and liquidation costs	21,077,625
Total	45,821,768

- 15.2 First and second distribution funds (accrual) – these amounts primarily represent funds owing to creditors whom we have been unsuccessful in getting in contact with (see explanation at paragraph 2.4).
- 15.3 The majority of the future costs of this liquidation estate will be incurred pursuing the claims against TD, SocGen and HSBC. These claims are costly to progress due to their scale, the duration of the claimed wrongdoing, the developing nature of the law in this area and the spread of the defendants across three geographic locations which each have different legislation and judicial systems to navigate through. While the costs are high the claims are for significantly higher sums of damages. If successful, the bank claims could result in a material dividend to the creditors. In addition, we need to make provision for the costs of the banks should we lose. This is reflected by the amount for US\$8.9 million to cover adverse legal costs.
- 15.4 We are conscious of our role as liquidators to manage the funds of the liquidation estate in the most efficient manner possible. With that in mind we closely oversee the spend on these litigation claims to ensure SIB is receiving good value for its spending on these claims.
- 15.5 In addition to professional costs, there are operational costs which must be incurred to ensure the proper administration of c17,000 claims held by the creditors; including ensuring that distributions are reissued where necessary, updating contact details following changes in the creditors' personal situations and progressing sales of claims when requested. These costs include the salaries of three employees in Antigua, supported by temporary staff as needed, and the running costs of their office location. The Antiguan employees are also assisting us with our litigation claims and management of the significant books and records of the estate. I am satisfied that the operating costs of the Antiguan office are being minimised where possible and are reasonable to support the ongoing efforts in this liquidation.
- 15.6 The Receipts and Payments account at Appendix A also shows the total balance of our fees and other professional fees incurred in the period of the liquidation. We submit all of our fees and our professional advisors fees to the Antiguan Court on a regular basis for the Court's review and approval.

Further updates from the Liquidators

- 16.1 We will continue our efforts to achieve further asset recoveries from the sources outlined in this report and will provide updates via the liquidation website with regards to any significant developments in these efforts.



Mark McDonald
Joint Liquidator – Stanford International Bank Limited

Signed at Road Town, Tortola, British Virgin Islands this 30th day of July, 2020

Appendix A

STANFORD INTERNATIONAL BANK LIMITED (IN LIQUIDATION)

Receipts and payments statement account

	1 January 2020 - 30 June 2020	Total as at 30 June 2020
Receipts	\$	\$
UK Recoveries		99,438,633
Sale of Guana and Pelican Islands		64,851,341
Sale of Sticky Wicket	1,856,000	1,856,000
Non UK Recoveries	2,216,662	25,466,145
General Litigation Claims Settlements		22,920,022
Distribution from subsidiaries		11,319,845
Interest earned	140,903	2,656,642
Claims transfer income	50,935	775,280
Rental Income and Miscellaneous Income	95,170	306,499
	4,359,670	229,590,407
Payments		
Other Legal Advisors Fees and Expenses	3,364,856	36,332,052
Co-Lead Legal Advisors Fees and Expenses	376,054	24,672,321
Provision for Adverse Costs	8,891,631	8,891,631
Liquidators Fees & Expenses	563,060	15,189,299
Cost of 3rd party funding	-	14,284,633
Former Liquidators' and Advisors Fees	-	9,215,062
Other Operational Expenses	214,133	5,329,167
Other Advisors Fees	-	4,382,502
IT / eDiscovery	153,569	3,788,740
Cost Awarded for removal of former liquidators	-	3,185,338
Loans to related Stanford Liquidations	5,100	1,798,011
Exchange Rate Adjustment	11,414	12,804
	6,579,817	127,081,560
	(9,220,147)	102,508,847
Less Distribution to Creditors		
Banked Distributions		65,578,710
Unbanked & Accrued Distributions		15,852,512
Total Distribution		81,431,222
Surplus		21,077,625
Represented By:		
Cash in Hand		45,821,768
Cash held/ accrued for distribution		(15,852,512)
Adverse legal costs provision		(8,891,631)
Available balance on hand		21,077,625