
Stanford International Bank Limited (In Liquidation)

Update to Creditors

April 2019

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Introduction

- 1.1 This is the tenth update report to creditors following the appointment of Hugh Dickson and Marcus Wide as liquidators of Stanford International Bank Limited (SIB) by order of the High Court of Antigua and Barbuda (the Court) on 12 May 2011.
- 1.2 The purpose of this report is to update the creditors on recent developments in the liquidation and the status of the ongoing recovery efforts.
- 1.3 Marcus Wide retired from Grant Thornton (British Virgin Islands) Limited (GTBVI) and I, Mark McDonald, have been appointed in place of Marcus Wide by order of the Court with effect from 31 December 2018. I am the Managing Director of GTBVI and have worked closely with Hugh Dickson and Marcus Wide on this liquidation since their appointment in 2011.

Second Distribution Announced

- 2.1 We have recently announced, via the liquidation website and by email to creditors, that we will shortly be paying a second distribution to creditors in the amount of US\$30 million¹ equating to a distribution of approximately 0.6% of creditors claims. Following distribution of this amount creditors will have received distributions totalling approximately 1.6% of their claim.
- 2.2 This is a considerable undertaking because we have in excess of 12,000 creditors in over 100 countries around the world to whom we are making distributions. I have recently issued a notice to all creditors who will participate in the second distribution and asked creditors to provide updated contact details, if any, to our Antiguan team. Our team in Antigua have received c.2,000 emails in response to this notice and are working very hard to deal with these responses to ensure that the second distribution is successfully delivered to creditors on our first attempt.
- 2.3 We expect that the updates will be finalised in the 2-3 weeks following this report and, shortly after, c.90-95% of cheques will be approved for distribution by our team. Due to the time required to process and deliver cheques, we anticipate that most of these cheques will be received by the creditors in mid-June. The remaining cheques relate to complex categories of claimants that require an enhanced review process to prevent over/under distribution and we anticipate that these cheques will be received by the creditors anywhere between mid-June through to the end of August.
- 2.4 We have taken steps to address issues which were identified in the first distribution process in which some creditors had difficulty receiving their cheques. As a result a number of cheques will be delivered by courier to creditors that live in certain countries².

¹ Note the actual amount of the distribution will be approximately US\$31.15 million.

² For now this is limited to Argentina, Belize, Brazil, Bolivia, Chile, Colombia, Costa Rica, Curacao, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Peru, Uruguay, Venezuela

Updates on Recovery Efforts

- 3.1 SIB collapsed in February 2009. The ten year anniversary recently passed in February 2019. The Liquidators are conscious that this liquidation process has been running for a long time and yet creditors have only received a small distribution. As creditors will be aware the largest potential recoveries in this liquidation are the ongoing claims against Toronto-Dominion Bank (TD), HSBC and Soc Gen against whom we are claiming approximately US\$5 billion.
- 3.2 These claims that we are pursuing against the banks are challenging to pursue, costly and time consuming. As set out in this report the banks are aggressively fighting these claims.
- 3.3 The sole focus of the Liquidators at this stage of the liquidation is to pursue recoveries. The remaining recoveries being pursued primarily relate to legal claims that the Liquidators have started against parties whom we say should be held responsible for relevant losses.

Claims against the Toronto-Dominion Bank

- 4.1 We started the claim against TD in August 2011. We are now eight and a half years into this litigation and have yet to have a trial date set. TD has fought us at every stage of this claim and will likely continue to do so. The below table summarizes the key events which have taken place in this litigation to date and the obstacles we have overcome so far.

No.	Event	Date
1.	Liquidators commenced actions in Ontario and Quebec	August 22, 2011
2.	Liquidators' Ontario action stayed pending Quebec forum motion	July 3, 2012
3.	Liquidators' Quebec action dismissed due to forum motion	January 28, 2014
4.	Stay of Liquidators' Ontario action lifted	May 15, 2014
5.	TD's original statement of defence delivered	September 12, 2014
6.	TD's motion for summary judgment (limitations) delivered	October 10, 2014
7.	TD's motion for summary judgment (limitations) dismissed	November 9, 2015
8.	TD's motion for a permanent stay of action delivered	January 8, 2016
9.	TD's motion for a permanent stay of action dismissed	April 8, 2016
10.	TD's motion for stay of action (Livent) delivered	June 16, 2016
11.	TD's motion for stay of action (Livent) dismissed	October 6, 2016
<u>End of Significant TD Bank Motions / Start of Merits Litigation</u>		
12.	Liquidators and TD exchange documentary productions	April 6, 2017
13.	Liquidators' challenges to TD privilege claims	May–December 2017
14.	Liquidators and TD examinations for discovery (8 total days)	April 2018
15.	Liquidators delivered majority of answers to undertakings	July 19, 2018
16.	TD's answers to undertakings remain largely outstanding	March 2019
17.	Liquidators' motion to challenge TD's refused questions	May 13-15, 2019

- 4.2 As the above summary highlights TD has consistently and aggressively resisted our claim. This has meant that the claim has not progressed as quickly as anticipated and that it has been more expensive.
- 4.3 The discovery process is now largely complete subject to the further hearings which will likely be required to deal with the areas of dispute between the parties on the discovery issues. TD also delivered questions for the former joint liquidators to answer. We are liaising with the Former Joint Liquidators and their advisors to make sure these questions are dealt with as promptly as possible.
- 4.4 Our current focus is on obtaining expert reports. Our experts will deliver reports relevant to the key issues of liability, damages and in response to TD's limitations defence.
- 4.5 We anticipate delivering our expert reports soon, after which we intend to ask the Ontario court to set a trial date for the case to be heard. It is likely that the trial will last somewhere between 6-12 weeks. Our lawyers will push for a trial as soon as possible but realistically it may not be until late 2020 or early 2021 that the case proceeds to trial.
- 4.6 The costs of pursuing a multi-billion dollar claim against a major bank are considerable. It is understandable given this is the largest potential recovery for the liquidation estate that it accounts for a large majority of the professional fee spend in this liquidation.
- 4.7 The case is primarily being run by our lawyers in Toronto, Bennett Jones. We continue to work closely with the Bennett Jones team and our co-general counsel to oversee the aggressive and cost effective prosecution of this case.

Claim against HSBC

- 5.1 On 14 March 2019 we served proceedings on HSBC Bank plc ("HSBC"). The claims are being brought in the English High Court and seek damages of up to £118m (around \$155m) in respect of two claims (1) that HSBC was negligent in permitting payments out of SIB's HSBC accounts in 2008; and/or (2) in allowing payments out of the accounts in 2008, HSBC dishonestly/recklessly assisted in the fraudulent scheme.
- 5.2 HSBC are required to file an acknowledgement of service (of the claim) by 1 April 2019 in which it is expected they will notify SIB of their intention to defend the claims. They will then have until 15 April 2019 to file their defence, although in practice they may seek an extension which can be agreed between the parties for up to a further 28 days (which would take the deadline to 13 May 2019). We will consider the reasonableness of any such request should it be made.
- 5.3 There are significant procedural and evidential steps to go through in order to progress SIB's claims through the English Court. Based on our lawyers experience of similar claims they consider a trial in late 2020 may be possible.
- 5.4 Again, HSBC is a major bank and time and cost of pursuing a claim against it is considerable. In addition, we have to be conscious of the adverse costs risk that we face in the event our claim is not successful and costs are awarded against us. We have had to factor in a reserve for this adverse cost risk into our litigation budget.

Possible claim against Société General (SG) (Switzerland)

- 6.1 Whilst the bankruptcy of SIB is recognized in Switzerland, there is a Swiss mini or ancillary bankruptcy process for SIB that is being carried out in Switzerland also. The purpose of this ancillary bankruptcy is to solely deal with Swiss assets and claims. The bankruptcy trustee for this ancillary process is Mr Christophe de Kalbermatten (Mr CdK) and we are liaising with him regarding all Swiss matters.
- 6.2 We have received advice from our Swiss lawyers regarding the prospects of Mr CdK starting proceedings against SocGen in Geneva, Switzerland. The opinions received to date from our lawyers indicate that there are good prospects of bringing various claims against SocGen to seek compensation from them as a result of their lack of diligence in the handling of the SIB accounts and other accounts controlled by Stanford.
- 6.3 Due to the lack of a proper discovery process in Swiss rules of civil procedure, it was necessary for SIB to participate, between 2012 and 2017, in Swiss criminal proceedings that led to the obtaining of evidence against SocGen, that will be used in the Swiss civil proceedings. Swiss rules of civil procedure are very strict in terms of allegations and offer of proof, which may in principle no longer be substantially amended after the particulars of claims have been filed.
- 6.4 Because the claim we are proposing to bring against SocGen is a claim that will be brought in Switzerland, the decision as to whether or not to bring these proceedings rests with Mr CdK, who will bring the proceedings on behalf of the Swiss ancillary bankruptcy of SIB. We are currently liaising with Mr CdK in this regard.
- 6.5 Subject to finalising the views of our legal team on these claims and Mr CdK being willing to bring the claims, we are hopeful that he will be able to start the civil proceedings against SocGen in Geneva by August 2019.
- 6.6 In 2013, SocGen was found by the Swiss Financial Markets Regulation Authority FINMA to be in serious breach of its anti-money laundering obligations in respect of the accounts of SIB and other accounts opened by Stanford, a decision that was confirmed on appeal by the Federal Administrative Court in 2016. Based notably on those breaches, the likely amount which Mr CdK will be seeking on behalf of the Swiss ancillary bankruptcy of SIB against SocGen will be significant and will be in excess of US\$200 million and possible considerably more.
- 6.7 The costs of bringing proceedings will consist essentially of the fees of our own lawyers, as well the fees of Mr. CdK, the advance court fees that must be deposited with the court upon filing the claim which should amount to CHF 200,000 in the first instance, as well as a guarantee for costs of up to 0.5% of the amount of the claim. The ancillary bankruptcy currently holds cash of CHF 10.2 million and part of these funds should be able to be used to cover the court fees and guarantee for costs.

Claim against Proskauer Rose

- 7.1 We filed claims against two US law firms, Chadbourne Parke LLC (“Chadbourne”) and Proskauer Rose LLP (“Proskauer”), on the basis that one of their partners assisted in facilitating the SIB ponzi scheme. These claims were filed in Antigua. We settled with Chadbourne in 2018. Our claim against Proskauer was challenged by Proskauer before the Antiguan Court. The basis of the challenge from Proskauer was that the Court should not have granted us approval to serve our claim on Proskauer outside of Antigua because they said that Antigua was not the most appropriate jurisdiction to hear this claim. The judgment handed down by the Antiguan Court on 28 October 2017 agreed with Proskauer’s arguments and set aside its original approval allowing the Liquidators to serve their claim outside of Antigua.
- 7.2 This ruling prevents us from pursuing our claim against Proskauer in Antigua at this time. We disagree with the Antiguan Court judgment and have appealed the decision to the Eastern Caribbean Court of Appeal.
- 7.3 We believe our claims against Proskauer are separate and distinct from the claim that the US Receiver brought against Proskauer and that our claims should proceed in Antigua. The US Receiver subsequently settled his claims against Proskauer.
- 7.4 We recently had a case management conference before the Court of Appeal to agree issues including the length of the hearing and the hearing date. Proskauer stated that because their lawyer who was representing them in this case was involved in a 9-month trial for the rest of 2019, they would not be in a position for the appeal to be heard until January 2020 at the earliest. Whilst our lawyers argued for an earlier hearing date the Court ultimately accepted Proskauer’s position that the appeal be set down for a one-and-a-half-day hearing starting on 13 January 2020. This was a disappointing and frustrating outcome for us given that the judgement effectively blocking our claim was handed down over a year and a half ago and we will now not get to have the appeal heard until 2020.
- 7.5 Nonetheless we will continue to pursue this claim because we are confident in the merits of our case and the forum in which it should be heard.

Recovery of Swiss Assets

- 8.1 Approximately US\$170 million remains frozen in Switzerland.
- 8.2 Frozen funds totalling approximately US\$33 million were released in late 2018 to the US Department of Justice (US DoJ) pursuant to their forfeiture requests. One third of the released funds, equivalent to US\$11.5 million, flowed into our liquidation estate and the balance went to the US Receivers estate pursuant to the Cross Border Protocol Agreement entered into between the Antiguan Joint Liquidators, the US Receiver and the US DoJ and other parties in 2013.
- 8.3 The primary reason for the continuing freeze of the remaining US\$170 million is the position being taken by SocGen that it is entitled to hold the remaining funds effectively as a lien to pay for the ongoing costs of the legal proceedings, and any awards made against it as a result of those proceedings, which are being pursued against them in the US and likely to come against them in Switzerland.
- 8.4 Our Swiss lawyers have filed a number of statements in opposition to those filed by SocGen arguing that they should be entitled to continue to assert their hold on the funds because of their lien rights. This argument is currently before the Swiss Federal Office of Justice and we are awaiting a decision from them as to what should happen with SocGen’s lien claims. Any decision of the Federal Office of Justice will likely be appealed and therefore it is unlikely that this issue will be resolved in the near future.

Clawback claims

- 9.1 Creditors will recall that the Liquidators have sought the Court's permission to pursue claims against net winners (i.e. those who withdrew more from SIB than they put in) and those who received a preference from SIB (i.e. those that withdrew money from SIB in the six months prior to the collapse of SIB).
- 9.2 In short, the court of first instance (the Antiguan Court) decided that:
- 9.2.1 We could not pursue any claims against Net Winners; and
 - 9.2.2 We could pursue Preference Creditors only to the extent that we were permitted to hold back distributions from those who received a preference until such time that the amount held back equalled the preference amount they had drawn.
- 9.3 The court of second instance (the Eastern Caribbean Court of Appeal) decided that:
- 9.3.1 We could not pursue any claims against Net Winners; and
 - 9.3.2 We could not pursue any claims against Preference Creditors.
- 9.4 We have appealed the decision of the Court of Appeal to the Privy Council which is Antigua's highest court of appeal. The Privy Council will hear our appeal on 23 and 24 July 2019 in London, England.
- 9.5 In the interim whilst we await a final decision on the clawback claims we have continued to preserve our rights to pursue the necessary claims against Net Winners and Preference Creditors by preserving the limitation period within which the claims can be brought. We have preserved our ability to pursue these claims by getting 6 monthly extensions approved from the Antiguan Court in respect of approximately 4,000 claims.
- 9.6 The potential value of the claims to be pursued against Net Winners and Preference Creditors will be significant. However, the challenge we will face is the time period which has passed since these monies were received by either the Net Winners or Preference Creditors which will likely make it more difficult to ultimately recover monies should we be successful in being granted the right to pursue these claims. The sheer number of claims to be pursued will also create issues for the liquidation estate in terms of managing the costs and benefits of the process and we will make sure that the final approach adopted is a commercially sensible one which will likely achieve greater benefits to the liquidation estate than the costs to be incurred.

Recoveries from related Stanford companies

- 10.1 I act a 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”)
- 10.2 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.
- 10.3 The main focus of these liquidations, with the exception of STC, has been to maintain the properties and to market them for sale. This has been a considerable exercise that has taken several years because of the specialist nature of some of the properties (including the Bank building and the marina) and the relatively small market in Antigua.
- 10.4 The surplus proceeds from each of these liquidations will ultimately flow up to SIB. As matters stand we estimate that the total recovery from the liquidation of the Companies will be in the region of US\$15 to 25 million.
- 10.5 A brief update with regards to the status of each of these liquidations follows.

Stanford Development Company Limited

- 11.1 We have agreed sales of all remaining real estate (with exception of a small parcel of land in Antigua) of SDC and are in the process of finalising Sale and Purchase Agreements for these properties.
- 11.2 Following completion of the remaining asset sales, SDC will distribute funds to pay off its remaining creditors and any remaining surplus to SIB.
- 11.3 In addition to the remaining parcel of land the other potential asset that the SDC liquidators will need to resolve is the debt totalling approximately EC\$26 million (approximately US\$9.6 million) due to SDC from the Government of Antigua and Barbuda (GOAB). We are currently in discussions with GOAB regarding this debt.
- 11.4 At this time we anticipate that the amount to be distributed up to SIB will be in the region of US\$3-5 million and depending on the extent of the recovery of amounts owing under the GOAB debt could ultimately be considerably more.

Maiden Island Holdings Limited

- 12.1 The assets of this company consisted of a marina, known as Crabbs Marina, in Antigua and a small island. These assets have been sold and the estate currently has cash of approximately US\$11 million.
- 12.2 There are no other known creditors of Maiden and therefore the cash will be distributed shortly to SIB as the sole creditor of Maiden.
- 12.3 We will shortly be making an application to the Antiguan court for the approval of the fees and expenses of this liquidation and the completion of this liquidation.

Stanford Hotel Properties Limited

- 13.1 This company's only asset is a parcel of land in Antigua with an estimated value of approximately US\$1 million. Our Antiguan real estate agent is continuing his efforts to market this property.

Gilbert Resort Holdings Limited

- 14.1 This company also owns a parcel of land in Antigua with an approximate value of US\$1.5 million. Our Antiguan real estate agent is continuing his efforts to market this property.

Stanford Trust Company Limited

- 15.1 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 are liaising closely with the Liquidators to monitor the developments in this liquidation and to try and free up the assets for ultimate distribution to SIB as soon as possible.
- 15.2 This entity has assets totalling approximately US\$6 million. The bulk of this money is frozen by the Colombian authorities because of legal claims which were brought against SCB by parties that were referred by SCB to purchase SIB certificates of deposit issued by SIB. The essence of the claim is that SCB should be held responsible for referring clients to purchase SIB CD's. This litigation has been ongoing for some considerable time and to date SCB has won decisions at the first and second instance courts in Colombia whereby the decisions have said that this is SCB's money and the claimants have no rights to this money. We are currently waiting for the decision of the final Court in Colombia following which we are advised that, if we are successful, the money will be unfrozen and ultimately distributed to SIB.

SIBs receipts and payments

- 16.1 We attach a statement of Receipts and Payments as at 31 March 2019 at Appendix A which shows that we currently hold cash on hand totalling US\$73,533,864. This cash balance is held for the following purposes;

	US\$
First distribution funds (accrual)	19,083,984
Second distribution funds	31,149,221
Available funds for future costs	23,300,660
Total	73,533,865

- 16.2 First distribution funds (accrual) – this amount is the balance we are holding from the first distribution amount of approximately US\$50 million. This money represents a combination of amounts that are being held back due to the claw back claims (see Section 8 above) and monies that, for a variety of reasons, have yet to reach the creditors.
- 16.3 The majority of the future costs of this liquidation estate will be incurred pursuing the claims against TD bank and HSBC together with the potential claim against SocGen. 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. Whilst the cost is high, we stress that the combined value of these three claims is in excess of US\$5 billion and, if successful, the claims could result in a material dividend to the creditors.
- 16.4 Whilst the characteristics of the legal claims naturally drives high costs, we are very aware that these costs should be minimised and controlled where possible. We have obtained detailed estimates of the litigation costs associated with pursuing our ongoing litigation matters from the relevant legal firms. These estimates have been in place since the litigation commenced and are reviewed and updated on an ongoing basis.
- 16.5 We are regularly reviewing the cost and benefits of other on-going matters to ensure that it is in the interest of the creditors to continue these actions. I will take steps to bring any action to a prompt close should I identify that it is no longer economically beneficial for the matter to be pursued.
- 16.6 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 but not limited to ensuring 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 salary of three employees in Antigua and the running costs of their office location. I have recently completed a review of operational costs and, having made some reductions, am satisfied that the operating costs of the Antigua office are being minimised where possible and reasonable.
- 16.7 Where possible, we have been conservative in our estimate for future costs and are therefore hopeful that the estate can be brought to a close for a lower sum.
- 16.8 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 and, to date, the Antiguan Court has approved all such fees for the period to 31 August 2018. We are in the process of preparing a further application for the fees incurred during the period 1 September 2018 through to 28 February 2019.

Further updates from the Liquidators

- 17.1 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 10th Day of April, 2019

Appendix A

STANFORD INTERNATIONAL BANK LIMITED (IN LIQUIDATION)

Receipts and payments statement account

Receipts

	Total as at 31 March 2019
UK recoveries	\$ 99,438,633
Sale of Guana and Pelican Islands	\$ 64,851,341
Non UK Recoveries	\$ 23,249,483
General Litigation Claims Settlements	\$ 22,784,141
Interest earned	\$ 1,672,003
Claims transfer income	\$ 592,440
Rental Income and Miscellaneous Income	\$ 196,675
	\$ 212,784,717

Payments

Other Legal Advisors Fees And Expenses	\$ 29,469,898
Co-Lead Legal Advisors Fees And Expenses	\$ 23,714,230
Cost of 3rd party funding	\$ 14,284,633
Liquidators Fees & Expenses	\$ 13,936,143
Former Liquidators' and Advisors Fees	\$ 9,215,062
Other Operational Expenses	\$ 5,218,783
Other Advisors Fees	\$ 4,382,502
IT / eDiscovery	\$ 3,586,269
Cost Awarded for removal of former liquidators	\$ 3,185,338
Loans to related Stanford Liquidations	\$ 1,700,300
	\$ 108,693,158

Less 1st Distribution

Banked Distributions	\$ 30,557,695
Unbanked Distributions & Holdbacks	\$ 19,083,984

Total 1st Distribution

\$ 49,641,679

Less 2nd Distribution

\$ 31,149,221

Total Payments

\$ 189,484,057

Available balance on hand

\$ 23,300,660

Represented By:

Cash in hand	\$ 73,533,864
Cash held/accrued for first distribution	\$ -19,083,984
Cash held/ accrued for second distribution	\$ -31,149,221

Available balance on hand

\$ 23,300,660