
Stanford International Bank Limited (In Liquidation)

Update to Creditors

January 2020

Table of Contents

Introduction	3
Privy Council judgment on clawback claims	3
Second Distribution Completed	3
Updates on Recovery Efforts	4-6
Claims against the Toronto-Dominion Bank	4
Claim against HSBC	4
Claim against Société General (SG) (Switzerland)	5
Claim against Proskauer Rose	5
Recovery of Swiss Assets.....	6
Recoveries from related Stanford Companies	7-8
Stanford Development Company Limited.....	7
Maiden Island Holdings Limited	8
Stanford Hotel Properties Limited.....	8
Gilbert Resort Holdings Limited.....	8
Stanford Trust Company Limited	8
SIB Receipt and Payments	9
Further updates from the Liquidators	10
Appendix A	
Receipts and Payments as of 31 December 2019	11

Introduction

- 1.1 The purpose of this update 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 April 2019 and 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.

Privy Council judgment on clawback claims

- 2.1 On 16 December 2019, the Privy Council in London, England dismissed the SIB estate's appeal against a decision of the Court of Appeal in the Eastern Caribbean on the estate's ability to pursue claw-back claims. This decision means that the Liquidators cannot pursue claims against Net Winners (those investors who took out more than they put in) or preference creditors (those investors who withdrew funds in the 6 months prior to SIB's liquidation) and must now release all amounts that the Liquidators have previously held back from preference creditors.
- 2.2 This decision by the Privy Council helpfully resolves all issues surrounding the treatment of net winners and preferences in this liquidation. This decision brings finality to the issues and allows the liquidators to release approximately US\$21 million of funds to creditors that had previously been held back pending clarity on this point of law.
- 2.3 We have been in communication with those impacted by this decision, a total of approximately 4,200 creditors. We have started the process to make distributions to these creditors and anticipate that the distribution will be completed by the end of March 2020.

Second Distribution Completed

- 3.1 The second distribution representing 0.6% of admitted claims was completed during December 2019.
- 3.2 As indicated in the receipts and payments section of this report we hold approximately US\$9.5 million relating to the first and second distributions. 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 get their distributions to them. Whilst reasonable efforts will be made to make sure creditors receive their distributions it will be that 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

- 4.1 The focus of our recovery efforts continues to be the pursuit of claims against Toronto-Dominion Bank (“TD”), HSBC Bank plc (“HSBC”) and Société Générale Private Banking S.A. (“SocGen”).
- 4.2 These claims that we are pursuing against the banks are challenging to pursue, costly and time consuming. Unsurprisingly the banks are strongly defending these claims and we anticipate being involved in these legal proceedings for several more years yet.

Claims against the Toronto-Dominion Bank

- 5.1 As we have previously discussed, TD has fought us at every stage of this claim and will likely continue to do so. This has meant that the claim has not progressed as quickly as we would have liked and has been more expensive than originally anticipated when commenced in August 2011. However, we have successfully overcome many of the obstacles raised by TD and are now well-placed to have our claim resolved on its merits.
- 5.2 Since our last report in April 2019, we have obtained and delivered expert reports on the key issues of liability, damages and in response to TD’s limitations defence. In turn, TD has delivered its responding expert reports addressing liability and its limitations defence and is expected to deliver its damages report soon. We also have the opportunity to deliver any reply expert reports, which we anticipate would be delivered in early 2020. In addition, the discovery process is now largely complete.
- 5.3 As a result of our progress in advancing the claim, the Ontario court has set a trial date for the case to be heard. The trial is scheduled to begin on January 11, 2021 and to be heard over the course of three months. As part of the order scheduling the trial the Ontario court has directed that we participate in a mediation with TD which has been scheduled for May 20, 2020. At this stage we are not able to predict what progress, if any, will be made at the mediation. Subject to the mediation, our focus throughout 2020 will be on preparing for trial.
- 5.4 This is the largest claim being pursued by the SIB estate whereby the estate is seeking an award of approximately US\$5 billion in damages.

Claim against HSBC

- 6.1 On 14 March 2019 we served proceedings on 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.
- 6.2 On 28 June 2019 HSBC filed their Defence. HSBC have denied liability in respect of both SIB’s negligence and dishonest assistance claims.
- 6.3 On 14 October 2019 we served our Reply addressing novel points raised in the Defence.
- 6.4 On 27 November 2019 HSBC served Requests for Further information (“RFI”), which are essentially a mechanism for seeking further factual detail about specific points raised in our claim. We have now responded to the RFI.

- 6.5 The first procedural hearing in the claim, referred to as a Case Management Conference (“CMC”) is listed for a one-day hearing on 5 February 2020 at which the timetable for future procedural steps in the case will be decided. The key focus currently is on the scope of the disclosure exercise (referred to as discovery in the US) for both ourselves and HSBC. The parties will also need to agree on expert evidence and which witnesses they will call at trial.
- 6.6 After the CMC, the parties will be heavily engaged for the remainder of 2020 in preparing the claim for trial. As matters stand, it is estimated that the trial will take place in the second half of 2021.
- 6.7 It is currently anticipated that the trial will last for 5 weeks.
- 6.8 HSBC had sought security for their costs. As reported previously, adverse costs are budgeted for and, in response to HSBC’s request, £900k has been paid into Stewarts client account as security pending final determination. Further periodic “tops-ups” may be requested by HSBC as their costs increase.

Claim against Société General (SG) (Switzerland)

- 7.1 A claim of approximately US\$510 million was filed in December 2019 against Soc Gen before the Court of First Instance of Geneva, Switzerland, on the basis of Soc Gen’s breaches of its duty of due diligence in respect of the Stanford accounts.
- 7.2 In conjunction with our legal advisors we gave close consideration to the best country for us to pursue claims against Soc Gen and concluded that we were best to bring the claims in Switzerland. Because we are pursuing the claims in Switzerland Mr Christophe de Kalbermatten, as the Swiss bankruptcy representative of SIB, is formally bringing these claims with the financial and legal backing coming from us.
- 7.3 The next steps in our claim will be to have a conciliation hearing that we expect will be set down with the court for some time in April or May 2020 and our expectation is that following that hearing that we be required to file a comprehensive document setting out the full particulars of claim within three months.

Claim against Proskauer Rose

- 8.1 We will have a one and a half day hearing before the Eastern Caribbean Court of Appeal (“CoA”) on 10 and 11 February 2020 in which we are appealing the decision of the Antiguan Court denying our ability to serve Proskauer Rose LLP (“Proskauer”) outside of Antigua. We initially had a CoA hearing set down for January 2020 but after a further adjournment application by Proskauer the hearing was moved to February. The issue before the CoA is whether or not Antigua is the most appropriate jurisdiction for our claim against Proskauer. SIB’s claims against Proskauer arise because one of Proskauer’s partners assisted in facilitating the SIB Ponzi scheme. We have filed our claim against Proskauer in Antigua and continue to believe that it is the most appropriate jurisdiction in which to hear this claim.
- 8.2 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.
- 8.3 SIB also had claims against Chadbourne Parke LLC (“Chadbourne”) and we ultimately agreed a settlement of those claims with Chadbourne in 2018.
- 8.4 The US Receiver also pursued claims against Proskauer. The US Receiver and Proskauer entered into a settlement of the US Receivers’ claims in 2018 where Proskauer paid the US Receiver US\$63 million. This settlement was approved by the US District Court of Texas. In October 2019 we received notice from Proskauer that they were seeking an order from the US District Court in Texas

that the Antiguan Liquidators' appeal in Antigua cannot proceed and further that the Antiguan Liquidators should be held in contempt of the US Court for pursuing the claim against Proskauer in Antigua. Any ruling of contempt against the Liquidators by a US court is a very serious matter and the Liquidators and our US legal team have treated this matter appropriately. We made filings in the US proceedings to assist the Texas court in understanding the position. On 24 January 2020, the US Court dismissed Proskauer's contempt motion.

Recovery of Swiss Assets

- 9.1 Approximately US\$170 million remains frozen in Switzerland.
- 9.2 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 security to pay for the ongoing costs of the legal proceedings it is defending as a result of the SIB collapse, and any awards made against it as a result of those proceedings.
- 9.3 The Swiss Federal Office of Justice (FOJ) issued a favourable decision in June 2019 ordering that all funds held in two bank accounts of SIB at SocGen be handed over to the US authorities. Once the funds are handed over to the US authorities they will be dealt with in accordance with the cross border protocol and settlement agreement entered into in 2013 between the Antiguan Joint Liquidators, the US Receiver, the US Department of Justice and others. In short, these agreements provide for the division of the funds between the Antiguan Joint Liquidators and the US Receiver and for them to be distributed.
- 9.4 Unfortunately SocGen has appealed the decision of the FOJ to the Federal Criminal Court. SIB was admitted by the Federal Criminal Court as a party in the appeal proceedings and filed observations rebutting SocGen's arguments. The Federal Criminal Court should issue its judgment before May 2020. A final further opportunity to appeal to the Federal Court, Switzerland's supreme court, is possible.

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 further recoveries from the liquidation of the Companies will be in the region of US\$10 million to US\$15 million, however, the amount we ultimately recover will depend on the outcome of our litigation and debt recovery efforts. A distribution of US\$11 million was received from MIHL in June 2019.
- 10.5 A brief update with regards to the status of each of these liquidations follows.

Stanford Development Company Limited

- 11.1 We have experienced some delays with the anticipated completion of two significant property transactions in the past year. We have dealt with these delays and are hopeful that the remaining property transactions will be completed in March 2020. Following the completion of these sales, which should generate approximately US\$7.5 million, we will be in a position to pay off the remaining amounts owing to SDC’s creditors totalling US\$3.2 million and distribute the balance to SIB.
- 11.2 After completion of the above two property transactions the remaining assets of SDC will consist of one remaining parcel of land with an estimated value of US\$0.5 million 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 the GOAB regarding this debt.

Maiden Island Holdings Limited

- 12.1 Following the sale of MIHL's assets a distribution of US\$11 million was made to SIB in 2019. This liquidation will shortly be finished following the completion of remaining statutory formalities. A further US\$0.3 million will be distributed to SIB on closure.

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\$0.5 million. Our Antiguan real estate agent is continuing his efforts to market this property.

Gilbert Resort Holdings Limited

- 14.1 We have an agreement in place to sell the property owned by this company for US\$1.5 million and anticipate that the transaction will complete by February 2020. The net proceeds from this sale will be distributed to SIB.

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 continue to liaise with the Colombian liquidator 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 certificates of deposit. 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 right to this money. We are now awaiting the decision of the final Court in Colombia on this issue. Unfortunately, we have been waiting for the final court's decision for over two years now and we are advised that it is unclear when they will issue their decision. We are in contact with the Colombian liquidator to attempt to move this process along.

SIBs receipts and payments

- 16.1 We attach a statement of Receipts and Payments as at 31 December 2019 at Appendix A which shows that we currently hold cash on hand totalling US\$60,449,915. This cash balance is held for the following purposes;

	US\$
Unbanked & accrued distributions	9,567,098
Preference holdbacks to be distributed	20,715,542
Available funds for future costs of the estate	30,167,275
Total	60,449,915

- 16.2 Unbanked and accrued distributions -as discussed at paragraph 3.2 above these amounts represent distributions owing to creditors who, for a variety of reasons, have yet to receive their distributions.
- 16.3 The majority of the future costs of this liquidation estate will be incurred pursuing the claims against the three banks. These claims are costly to pursue 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 the claims are for significant amounts and if successful could result in a material dividend to creditors.
- 16.4 We are conscious of our role as liquidators to manage the funds of the liquidation estate in the most efficient manner possible and 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.
- 16.5 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 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, 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 amount of books and records. 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.
- 16.6 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 and, to date, the Antiguan Court has approved all such fees for the period to 28 February 2019. We are in the process of preparing a further application for the fees incurred during the period 1 March 2019 through to 31 August 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 31st day of January, 2020

Appendix A

STANFORD INTERNATIONAL BANK LIMITED (IN LIQUIDATION)

Receipts and payments statement account

	1 January 2019 - 31 December 2019	Total as at 31 December 2019
Receipts	\$	\$
UK Recoveries	11,888	99,438,633
Sale of Guana and Pelican Islands	-	64,851,341
Non-UK Recoveries	-	23,249,483
General Litigation Claims Settlements	142,876	22,920,022
Distribution from Subsidiaries	11,319,845	11,319,845
Interest Earned	1,267,481	2,515,739
Claims Transfer Income	141,875	724,345
Rental Income and Miscellaneous Income	89,233	211,329
	12,973,198	225,230,737
Payments		
Legal Advisors' Fees & Expenses	3,742,313	32,967,196
Co-Lead Legal Advisors' Fees & Expenses	1,664,724	24,296,267
Liquidators' Fees & Expenses	1,340,151	14,626,239
Cost of 3rd party funding	-	14,284,633
Former Liquidators' & Advisors' Fees	-	9,215,062
Other Operational Expenses	(36,196)	5,115,034
Other Advisors Fees	-	4,382,502
IT / eDiscovery	65,815	3,635,171
Cost Awarded for removal of former liquidators	-	3,185,338
Loans to related Stanford Liquidations	92,610	1,792,911
Exchange Rate Adjustment	-	1,390
	6,869,417	113,501,743
	6,103,781	111,728,994
Less Distribution to Creditors		
Banked Distributions		51,279,079
Unbanked & Accrued Distributions		9,567,098
Preference Holdbacks		20,715,542
Total Distribution		81,561,719
Surplus		30,167,275
Represented By:		
Cash in Hand		60,449,915
Cash held/ accrued for distribution		30,282,640
Available balance on hand		30,167,275