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# Stanford International Bank Limited (In Liquidation)

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**Update to Creditors**

February 2021

# Table of Contents

<b>Introduction</b> .....	3
<b>Distributions</b> .....	3
<b>Updates on Recovery Efforts</b> .....	4-8
Claims against The Toronto-Dominion Bank.....	5
Claim against HSBC (London, England) .....	6
Claim against Société General (SG) (Switzerland) .....	6
Claim against Proskauer Rose.....	7
Recovery of Swiss Assets.....	8
<b>Recoveries from related Stanford Companies</b> .....	9-10
Stanford Development Company Limited.....	9
Stanford Hotel Properties Limited.....	9
Maiden Island Holdings Limited .....	10
Gilbert Resort Holdings Limited.....	10
Stanford Trust Company Limited .....	10
<b>SIB Receipt and Payments</b> .....	11
<b>Further updates from the Liquidators</b> .....	12
<b>Appendix A</b>	
Receipts and Payments as of 31 December 2020 .....	13

## 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](http://www.sibliquidation.com), in July 2020. This report focuses 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 Following the recent release of the majority of the remaining Swiss frozen funds to the US Department of Justice (DoJ) we received the Antiguan liquidation estates' share of those funds in accordance with the Cross Border Protocol totalling US\$46.9 million in January 2021. When combined with other Swiss frozen funds received this allowed us to announce a third distribution to victims of 1% which equates to approximately US\$50 million. See further detailed explanations at section 8 below regarding the Swiss frozen funds received.
- 2.2 Following the completion of the third distribution the Antiguan liquidation estate will have made distributions to victims totalling 2.6% of their claims.
- 2.3 Further distributions to victims will be dependent on realisations from the litigation claims we are continuing to pursue and the status of which are outlined in this report. Given the uncertainties of litigation, it is not possible for us to predict the timing or amount of any recoveries from these claims.
- 2.4 Unclaimed distributions total US\$11.8 million. As advised in prior reports these amounts represent distributions owing to creditors who for a variety of reasons have not banked their cheques. It is to be expected in a long running liquidation with over 17,000 creditors that there will be some creditors who 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 Joint Liquidators of SIB are pursuing a number of actions across the world to recover funds lost by approximately 17,000 victims, across 141 countries. The main perpetrator behind the fraud, Robert Allen Stanford, is serving a 110-year sentence in a US federal prison by reason of his conviction for orchestration of this US\$7 billion fraud, one of the largest in financial history.
- 3.2 The joint liquidators are currently pursuing (a) a US\$4.5 billion claim against The Toronto-Dominion Bank (“TD”) in Canada, over its alleged negligence in providing and maintaining a US dollar correspondent account to SIB, (b) a US\$510 million negligence claim lodged against Société Générale Private Banking (Suisse) SA (“Soc Gen”) in Switzerland and (c) a UK£118 million ‘Quincecare’ duty of care claim against HSBC in London which is proceeding to trial in October 2021.
- 3.3 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. 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 Our trial against TD started on 11 January 2021 and is being heard by Madame Justice Conway in the Ontario Superior Court of Justice. The trial is being conducted virtually.
- 4.2 The trial has started well and is expected to continue to approximately the end of March 2021. The trial can be viewed on YouTube and the links to view the trial are posted to the estate's website.
- 4.3 The conduct of the trial is a significant undertaking. The evidence and witnesses are substantial in volume and numbers. As expected, TD is fighting hard to defend its conduct in respect of its involvement in the Stanford matter.
- 4.4 The lead up to the trial was primarily taken up with preparation for the anticipated twelve-week trial. Noteworthy work streams that required the attention of our lawyers in this regard included the following:
  - 4.4.1 Seeking and obtaining Letters of Request from the Ontario Superior Court of Justice addressed to courts of various other jurisdictions for the purpose of compelling the testimony of various trial witnesses.
  - 4.4.2 Conducting trial management conferences and motions before the trial judge including relating to trial processes, the evidentiary record available at trial, witness schedules and other matters relevant to the conduct of the trial.
  - 4.4.3 Preparing fact and expert witnesses to be called at trial and preparing related written and oral argument relevant to the trial evidence including regarding a procedural matter of importance relating to compelling 8 former TD employees to be called as part of SIB's case; and how such former employees would be permitted to be examined by SIB's counsel as witnesses at trial.
  - 4.4.4 Preparing a detailed written opening argument containing our trial narrative and summaries of legal issues anticipated to be relevant to trial and reviewing TD's written opening argument.
  - 4.4.5 Successfully resisting TD's motion to enforce a Letter of Request from a U.S. judge seeking to compel testimony of the Joint Liquidators and Marcus Wide (the former Joint Liquidator) in the U.S. Action.
- 4.5 After trial testimony is concluded in approximately mid-March 2021, the parties will likely be given approximately 2 weeks to file their respective closing submissions. Counsel will then be invited to make their respective oral closing arguments before Justice Conway. The Judge will likely then reserve her judgment meaning that she could prepare it over what could be several months of time before it will be issued. The unsuccessful party will have an automatic right to appeal the trial court's ruling to the Ontario Court of Appeal.

## Claim against HSBC (London, England)

- 5.1 We continue to pursue our claim against HSBC seeking damages of at least approximately £118 million. The last 8 months has been an active period in this litigation and key developments in this period are summarised as follows.
- 5.2 The hearing of HSBC's strike out application took place on 30 and 31 July 2020 via a remote hearing before the High Court of Justice in London. SIB's claim against HSBC was brought on two bases, namely: (i) a breach of HSBC's Quincecare duty (a negligence claim); and (ii) dishonest assistance. We successfully resisted the strike out of the Quincecare claim, but the court struck out the dishonest assistance claim on the basis it had no prospect of success as the case is currently pled. However, it remains open to SIB to reinstate that claim should further evidence supporting such a claim emerge in HSBC's disclosure of documents. This would allow us to amend our particulars of claim to meet the pleading standard required by the court.
- 5.3 In September 2020 the Court gave permission for both parties to appeal the aspect of the strike out judgment on which they were unsuccessful. The appeals will be heard during a 2-day remote hearing scheduled to start on 23 or 24 March 2021 before the Court of Appeal. Without waiving privilege over the substance of the advice received, our legal team consider that we are in a good position to achieve a successful outcome at the appeal hearing and that the case will proceed to trial.
- 5.4 Exchange of documents for disclosure between the parties took place in stages from October 2020 onwards and the final exchange was completed on 15 January 2021. The timetable for the main proceedings continues to progress in parallel to the appeal hearing. The next procedural deadline will be the exchange of witness statements which is currently scheduled for 12 March 2021. Trial remains scheduled for 5 weeks starting around 18 October 2021.
- 5.5 We will keep you up to date following the outcome of the scheduled appeal hearing.

## Claim against Soc Gen (Geneva, Switzerland)

- 6.1 As advised in our last report, a first conciliation hearing was held before the Court of First Instance in Geneva in June 2020, but no settlement could be reached between the parties. Due to various factual and legal considerations, it was decided to let the authorisation to proceed and to file our statement of claim lapse in October of last year.
- 6.2 In December 2020 Mr Christophe de Kalbermatten, as the Swiss bankruptcy representative of SIB, filed a new claim against Soc Gen in the Court of First Instance of Geneva, Switzerland. The claim, expressed in Swiss Francs, is for the present equivalent of approximately US\$525 million in damages based on negligence. A conciliation hearing in respect of this claim is scheduled to be held before the Court of First instance of Geneva in March 2021. If no settlement is reached between the parties at that hearing, the court will be issuing to SIB an authorisation to file the full statement of claim by June of this year.
- 6.3 Following the filing of the particulars of claim, the next steps will ordinarily be the imposition of a term on Soc Gen to prepare its Statement of Defence or preliminary objections, followed sometimes by an intermediate hearing and by a further exchange of briefs. After that, the Court will analyse and hear the evidence in the case. In Switzerland, the civil trial process takes place through a series of sequential steps set by the judge.

## Claim against Proskauer Rose

- 7.1 The Eastern Caribbean Court of Appeal (“CoA”) delivered judgment on 29 October 2020 denying our appeal of the decision of the Antigua Court regarding our ability to serve Proskauer Rose LLP (“Proskauer”) outside of Antigua. Following consultation with our legal team we have appealed the CoA’s decision and requested permission from the CoA for leave to appeal its decision to the Privy Council in London. The hearing of this application has been scheduled for the week of 17 May 2021.
- 7.2 In the US, Proskauer continued its appeal of the US Court’s decision that it did not have jurisdiction over the Joint liquidators and therefore could not enforce the US court’s bar order, to prevent the JJs from continuing their claims against Proskauer in Antigua, against us or hold us in contempt. The United States Court of Appeals for the Fifth Circuit heard oral arguments on this matter on 8 December 2020 and following the hearing of the arguments advised the parties to hold discussions with a mediator. Discussions with the mediator remain ongoing.

## Recovery of Swiss Assets

- 8.1 During the period July 2020 and January 2021, we recovered Swiss assets totalling US\$50.1 million as follows:

US\$3,757,189	3 December 2020	Antiguan liquidation estates share of Swiss assets distributed from Bank of Antigua liquidation.
US\$46,926,748	26 January 2021	Received from DoJ
<b>US\$50,683,937</b>	<b>TOTAL</b>	

- 8.2 It is from these assets that the third distribution of 1% will be made.
- 8.3 The bulk of the assets received from the DoJ followed the decision of the Swiss Federal Criminal Court on 16 October 2020 ordering that all frozen funds held in SIB's and related entities' accounts be released to the US authorities. The majority of the remaining Swiss frozen funds totalling US\$150,165,593 were then remitted to the DoJ. The DoJ subsequently remitted to the Antiguan liquidation estate the amount of US\$46,926,748 on 26 January 2021. The balance of the DoJ funds were remitted to the US Receiver in accordance with the division of Swiss funds mandated by the Cross Border Protocol ("the Protocol") agreed between the parties in 2013.
- 8.4 In December 2020 we received a distribution totalling US\$13 million from the Bank of Antigua liquidation. Of the US\$13 million received, US\$12 million relates to Swiss frozen fund recoveries and was apportioned between the Antiguan liquidation estate and the US Receivers' estate in accordance with the terms of the Protocol. US\$8.3 million was distributed to the US Receiver in accordance with the Protocol and the balance of US\$3.7 million, shown in the above table, represents the Antiguan liquidation estates' share of this recovery.
- 8.5 We anticipate receiving further distributions from the Bank of Antigua totalling approximately US\$7 million. These distributions will come from remaining investments that need to be liquidated and returned to the Bank of Antigua liquidators as well as further funds, totalling approximately US\$4.7 million, that Soc Gen are refusing to release. Soc Gen continue to hold these funds despite the ruling of the Swiss Federal Criminal Court in October 2020 in which the Court ordered that all funds be remitted to the DoJ. We are disappointed that Soc Gen continues to adopt this position despite the clear ruling of the Swiss courts and are confident that their position will ultimately be found to be without merit. We are liaising with the Bank of Antigua liquidators to ensure this issue is dealt with as soon as possible. All future realisations from the Bank of Antigua liquidation will be split between the Antiguan estate and the US Receiver in accordance with the terms of the Protocol.
- 8.6 We are pleased that the very lengthy process of recovering the Swiss frozen funds is largely complete.



## 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\$14 million has been received to date by SIB and as matters stand, we estimate that there will be further receipts totalling approximately US\$1.6 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 The sale of the Sun printing building is ongoing. We have received US\$1 million to date and expect the final balance of US\$0.5 million shortly following which the sale will be completed.

10.2 The remaining assets of SDC 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.

10.3 As previously reported all SDC creditors were repaid in full and all future distributions will be made to SIB. Following the settlement of the remaining properties we estimate distributions totalling approximately US\$1.2 million will be made to SIB. Any further distributions beyond this are dependent on 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\$11.35 million were received by SIB. We are now taking steps to formally close the MIHL liquidation.

## Gilbert Resort Holdings Limited

13.1 The sale of the property at Gilberts Estate was completed in September 2020, and a distribution of the net proceeds of US\$1.4 million was received by SIB in November 2020. We are now progressing the closure of the Gilberts liquidation.

## 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 introduced to SIB to purchase certificates of deposit. We continue to wait for the decision of the final Court of appeal 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 31 December 2020 at Appendix A which shows that the cash on hand at that date totalled US\$44,053,506. This cash balance is held for the following purposes;

	US\$
First and second distribution funds (accrual)	11,786,000
Amounts held to cover the risk of adverse legal costs orders	8,891,631
Swiss Assets held for distribution	5,973,851
Available funds for future litigation and liquidation costs	17,402,024
<b>Total</b>	<b>44,053,506</b>

- 15.2 The Receipts and Payments does not include the funds received in January 2021 from the DoJ per paragraph 2.1 above.
- 15.3 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).
- 15.4 Funds received in respect of the frozen Swiss assets will be used for the third distribution along with amounts received by the DoJ in January (see paragraph 8.3 above).
- 15.5 The majority of the future costs of this liquidation estate will be incurred pursuing the claims against TD, Soc Gen 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.
- 15.6 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 expenditure of funds on these litigation claims to ensure SIB is receiving good value for its money on these claims.
- 15.7 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.
- 15.8 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.

## Further updates from the Liquidators

- 16.1 We will continue our efforts to achieve further 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 (in Liquidation)

28th day of February, 2021

# Appendix A

## STANFORD INTERNATIONAL BANK LIMITED (IN LIQUIDATION)

Receipts and payments statement account

	1 July 2020 - 31 December 2020	Total as at 31 December 2020
	US\$	US\$
<b>Receipts</b>		
UK recoveries	-	99,438,633
Sale of Guana and Pelican Islands	-	64,851,341
Sale of Sticky Wicket	-	1,856,000
Non UK Recoveries	3,757,189	29,223,334
General Litigation Claims Settlements	-	22,920,022
Distribution from subsidiaries	2,676,996	13,996,841
Interest earned	60,950	2,717,593
Claims transfer income	17,385	792,665
Rental Income and Miscellaneous Income	10,172	316,671
	<b>6,522,692</b>	<b>236,113,099</b>
<b>Payments</b>		
Other Legal Advisors Fees And Expenses	2,998,051	39,330,104
Co-Lead Legal Advisors Fees And Expenses	381,614	25,053,934
Provision for Adverse Costs	-	8,891,631
Liquidators Fees & Expenses	509,072	15,698,372
Cost of 3rd party funding	-	14,284,633
Former Liquidators' and Advisors Fees	-	9,215,062
Other Operational Expenses	201,843	5,531,010
Other Advisors Fees	27,300	4,409,802
IT / eDiscovery	79,352	3,868,092
Cost Awarded for removal of former liquidators	-	3,185,338
Loans to related Stanford Liquidations	6,508	1,804,519
Exchange Rate Adjustment	2,191	14,995
<b>Total Payments</b>	<b>4,205,931</b>	<b>131,287,491</b>
<b>Surplus</b>	<b>2,316,761</b>	<b>104,825,607</b>
<b>Less Distribution to Creditors</b>		
Banked Distributions		69,663,732
Unbanked & Accrued Distributions		11,786,000
<b>Total Distribution to Date</b>		<b>81,449,732</b>
Frozen Swiss Assets held for Future Distribution		5,973,851
<b>Surplus</b>		<b>17,402,024</b>
<b>Represented By:</b>		
<b>Cash in Hand</b>		<b>44,053,506</b>
Cash held/ accrued for distribution		(11,786,000)
Adverse legal costs provision		(8,891,631)
Frozen Swiss Assets held for Distribution		(5,973,851)
<b>Available balance on hand</b>		<b>17,402,024</b>