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# Stanford International Bank Limited (In Liquidation)

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**Update to Creditors**

March 2022

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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](http://www.sibliquidation.com), in August 2021. 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 We have made three distributions to creditors to date, totalling 2.6% of victims' claims, equivalent to approximately US\$133 million.
- 2.2 The third distribution of US\$50 million is now largely complete, with all original cheques from that distribution now having been either banked or cancelled because they were more than six months old. We continue to make regular quarterly redistributions to creditors who for a variety of reasons either did not receive or could not bank their cheques.
- 2.3 Unclaimed and accrued distributions currently total approximately US\$17.5 million at the date of this report. As mentioned in previous reports, unclaimed and accrued distributions represent amounts held for creditors who, for a variety of reasons, have not banked their distribution cheques or who we have not been able to contact. It is to be expected in a long running liquidation with over 17,000 creditors that there will be some creditors to whom we are unable to successfully make distributions.
- 2.4 Whilst reasonable efforts will be made to make sure creditors receive their distributions, it will inevitably be the case that some unclaimed distributions will remain 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 redistributed amongst creditors whom we have been successful in contacting.
- 2.5 Further distributions to victims will be dependent on realisations from the bank litigation claims we are continuing to pursue, as discussed below. Given the uncertainties of litigation, it is not possible for us to predict the timing or amount of any recoveries from these claims.

## Deadline for submission of new claims

- 3.1 To date we have admitted creditor claims in the liquidation estate totalling approximately US\$5 billion. As stated above we have made distributions totalling 2.6% of this amount.
- 3.2 The Joint Liquidators have previously not set any deadline for creditors to submit proofs of debt in the liquidation estate which means that creditors have been able to continue to file claims and subject to their claims being admitted they have been entitled to receive all previous distributions totalling 2.6% of their admitted claims.
- 3.3 Going forward any creditor that files a claim will only be eligible to receive their share of any future distributions to be made by the liquidation estate. Creditors whose claims are not received prior to 16 April 2022 will not receive the benefit of historical distributions already announced (i.e. distributions one to three, at a cumulative rate of 2.6%) and will only be eligible to receive any future distributions.
- 3.4 For the avoidance of doubt, creditors whose claims have already been registered and admitted by the Joint Liquidators are not required to submit a new proof of debt or claim by the above deadline. This notice only applies to eligible creditors who have not yet submitted a claim in the liquidation estate.

## Updates on Recovery Efforts

4.1 The Joint Liquidators of SIB are continuing to pursue three claims against banks to recover funds lost by approximately 17,000 victims. 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\$5 billion fraud, one of the largest in financial history. These claims are set out below:

Claim Defendant	Jurisdiction	Total claim Amount	Nature	Report Paragraph
Toronto-Dominion Bank ("TD")	Canada	US \$4.5 billion	Negligence relating to TD's provision and maintenance of a US dollar correspondent account	5.1 to 5.6
HSBC	United Kingdom	£118 million	'Quincecare' duty of care claim	6.1 to 6.3
Société Générale Private Banking (Suisse) SA ("Soc Gen")	Switzerland	US \$510 million	Negligence	7.1 to 7.2

4.2 As advised previously, these are complex and challenging claims to pursue given their scale, the duration of the alleged wrongdoing and the developing nature of the law in this area. We believe the evidence shows their conduct fell below that required of banks in their position. We have weighed up the specific legal merits and challenges of each claim and have taken into account the significant recoveries which may be achieved if we are successful.

4.3 As detailed further below, we are in the process of appealing decisions in both the TD and HSBC claims.

4.4 In respect of the Soc Gen claim, we continue to liaise with the Swiss bankruptcy representative of SIB and our Swiss counsel to get SIB's claim finalised and filed.

4.5 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 legally distinct and can be run in parallel with the claims that we are maintaining. 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

- 5.1 SIB's claim against TD was dismissed by the Ontario Superior Court of Justice (Commercial List) in a 50-page written judgment of Justice Conway. Justice Conway found that TD was not liable for any damages to SIB because SIB had not established the necessary elements of knowing assistance or the existence, and breach, of a duty of care.
- 5.2 In short, the basis for Justice Conway's dismissal of SIB's claim was that (1) she was not satisfied that TD Bank knowingly assisted Mr Stanford's fraud; (2) she was not satisfied that TD Bank had a duty of care to SIB sufficient to give rise to a liability in negligence, and (3) if such a duty was owed, she was not satisfied that TD Bank had fallen below the standard of care expected of it. Justice Conway dismissed TD's other defences and accepted the JLS' position for calculating damages.
- 5.3 The Joint Liquidators consider that Justice Conway erred in her findings in respect of the knowing assistance and negligence elements of SIB's claim and maintain the position that TD should have been found to be liable for its role in facilitating Mr Stanford's fraudulent scheme.
- 5.4 Accordingly, we have filed an appeal against Justice Conway's decision. In SIB's appeal we urge the Ontario Court of Appeal to find that Justice Conway made both legal and factual errors that, if reversed, ought to result in the conclusion that TD is liable to SIB in respect of either or both of knowing assistance or negligence. In the alternative, the JLS are seeking a new trial.
- 5.5 The decision to appeal was a considered one and was made after taking into account the merits of the appeal and the costs and benefits of pursuing the claim.
- 5.6 The appeal is scheduled to be heard over 1.5 days on 20 and 21 April 2022. Creditors will be provided with viewing links for the appeal via the SIB liquidation website, [sibliquidation.com](http://sibliquidation.com), once they become available.

## Claim against HSBC (London, England)

- 6.1 SIB's claim against HSCB seeks damages of approximately £118 million.
- 6.2 SIB's appeal of the Court of Appeal's decision on the loss issue was heard by the Supreme Court, the highest court in the United Kingdom, during a 1-day hearing on 19 January 2022. As previously advised this appeal considered whether SIB suffered any loss as a result of HSBC's actions. If the Supreme Court holds that SIB did suffer loss, then SIB's case against HSBC will proceed to a full trial of the matter sometime during 2023. If the Supreme Court finds that SIB did not suffer any loss, we cannot pursue our Quincecare claim against HSBC for the bulk of the GBP118 million and SIB's claim would be limited to approximately GBP2.4 million.
- 6.3 We are hopeful that the decision of the Supreme Court will be handed down some time in the next few months. As soon as the decision is released, we will post a copy to the SIB liquidation website [sibliquidation.com](http://sibliquidation.com).

## Claim against Soc Gen (Geneva, Switzerland)

- 7.1 We are continuing our efforts to finalise and file SIB's claim against Soc Gen in Geneva, Switzerland for approximately US\$510 million in damages.
- 7.2 As previously advised Mr Christophe de Kalbermatten is the Swiss bankruptcy trustee of SIB. As SIB's representative in Switzerland it is Mr de Kalbermatten's responsibility to approve SIB's claim before it can be filed. We and our Swiss lawyers are continuing to liaise with Mr de Kalbermatten with a view to finalising and filing SIB's claim as soon as possible.

## Recovery of Swiss Assets

- 8.1 We continue to work to recover the remaining Swiss assets of SIB. Current estimates indicate that approximately US\$10 million in both cash and illiquid investments remain to be recovered. This work involves liaising with the administrators of a Cayman Islands Fund, Swiss and US authorities and the US Receiver.
- 8.2 As previously advised, any future receipts of frozen Swiss Assets will be split between the JLS and the US Receiver at a ratio of 1:2 in accordance with the protocol governing recoveries of frozen Swiss Assets and are ringfenced (net of direct costs) and held specifically for distributions to creditors.

## Recoveries from related Stanford companies

- 9.1 Mark McDonald acts 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 surplus proceeds from each of these liquidations either have or will be distributed to SIB. US\$14 million in distributions from the Companies 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 our debt recovery efforts in Antigua.
- 9.3 A brief update with regards to the status of each of these liquidations, except for MIHL and Gilberts whose assets have been sold and proceeds distributed to SIB, follows.

### Stanford Development Company Limited

- 10.1 Following the completion of the sale of the Sun Printing building the only remaining assets of SDC consist of a parcel of land in Antigua and debts due to SDC from the Government of Antigua and Barbuda (“GOAB”). We will shortly be distributing approximately US\$750,000 to SIB from the proceeds of the sale of the Sun Printing building. We estimate that the parcel of land has a value of approximately US\$400,000 and we are continuing our efforts to try and sell that land.
- 10.2 The debt due to SDC from the GOAB is in excess of EC\$20 million (US\$7.4 million). Although the GOAB have 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, the GOAB are yet to address the repayment of this debt to SDC, despite our efforts for recovery to date. Our efforts to get the GOAB to engage with us and agree a resolution to the settlement of the total debt are ongoing.

### Stanford Hotel Properties Limited

- 11.1 This company’s only asset is a parcel of land in Antigua which sits adjacent to the remaining parcel owned by SDC, as discussed above. It is likely we will sell both parcels of land together and our efforts in that regard are ongoing. Unfortunately, the process of selling these parcels of land has taken significantly longer than we would have liked, however, the market for this land in Antigua is limited. As with SDC’s parcel we estimate the likely value of SHPL’s parcel is also in the range of US\$400,000.

## Stanford Trust Company Limited

- 12.1 As previously advised, STC's only potentially recoverable 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 monitor the prospects of any recoveries from that liquidation.
- 12.2 SCB holds funds denominated in Colombian Pesos, equivalent to approximately US\$4.5 million which was frozen by Colombian authorities pending the final resolution of legal claims which are being pursued against SCB. The legal proceedings were brought as a class action and the eligible members of the class are parties who bought their SIB certificates of deposit via SCB and claim that SCB should be liable for their losses. The class action only currently consists of 16 investors who lost a total of US\$1.5 million. A further 34 creditors with a claim total of US\$3 million are eligible to join the class action.
- 12.3 As previously advised, in February 2021 the Colombian Supreme Court issued a decision in favour of the class action members and ordering that the remaining assets of SCB be distributed to them. This decision overturned the prior decisions of the first and second instance courts in Colombia. We are disappointed with the decision and are liaising with the Colombian liquidator to exhaust all final avenues of appeal open to us.
- 12.4 However, it is unlikely our final appeals will be successful and therefore there will likely be no distributions to SIB from this Colombian liquidation.
- 12.5 The class action participants will likely receive a share of the approximately US\$4.5 million which will mean they receive a substantial distribution towards the total amount of their claims. The result of this decision is that these class action participants will likely receive more, in terms of the percentage of their total claims, than all other SIB creditors. We will ensure that these creditors are not eligible to receive any further distributions from the liquidation estate.



## SIB Receipts and Payments

- 13.1 We attach a statement of Receipts and Payments as at 31 December 2021 at Appendix A which shows that the cash on hand at that date totalled US\$37.76 million. This cash balance is held for the following purposes:

	US \$000's
Distribution funds (accrual)	17,520
Amounts held to cover the risk of adverse legal costs orders	10,367
Frozen Swiss Assets held for future distribution	4,486
Available funds for future litigation and liquidation costs	5,390
<b>Total</b>	<b>37,763</b>

- 13.2 The balance of distribution funds (accrual) represents funds owing to creditors in respect of distributions declared to date who have either not banked their cheques or who the Joint Liquidators have been unable to contact to date (see explanation at paragraph 2.3). The reduction to this balance of approximately US\$9 million since the last report primarily reflects creditors having banked their third distribution cheques.
- 13.3 As discussed above, frozen Swiss Assets held by the Antiguan liquidation estate will be distributed to creditors at such a time as we have sufficient funds for a fourth distribution to be economical.
- 13.4 The majority of the future costs of this liquidation estate will be incurred pursuing the bank litigation claims. While the costs are high, the damages claims are for significantly higher sums. If successful, the bank claims could result in a material dividend to creditors.
- 13.5 Amounts held to cover the risk of adverse legal costs orders represent amounts that have been set aside to provide for court orders being made against the liquidation estate in the event we lose litigation claims and have to pay the costs of the banks. This amount has increased by US\$1.5 million since the last report to reflect additional provisions for the TD litigation.
- 13.6 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.
- 13.7 In addition to professional costs, there are operational costs which must be incurred to ensure the proper administration of approximately 17,000 claims held by the creditors. This includes ensuring that distributions are reissued regularly and where necessary, dealing with creditor enquiries, 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.
- 13.8 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 and note that we are currently undertaking a process of downsizing the Antiguan office space used by SIB in order to reduce operating expenditure.
- 13.9 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 to 31 December 2021. 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

- 14.1 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)

14<sup>th</sup> day of March 2022

# Appendix A

## Receipts and Payments Account as of 31 December 2021

	<b>1 July 2021 to 31 December 2021</b>	<b>Total as at 31 December 2021</b>
	<b>US\$</b>	<b>US\$</b>
<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	-	78,154,270
General Litigation Claims Settlements	-	22,920,022
Distribution from subsidiaries	-	13,996,841
Interest earned	1	2,721,983
Claims transfer income	10,949	810,614
Rental Income and Miscellaneous Income	10,641	343,020
<b>Total receipts</b>	<b>21,591</b>	<b>285,092,724</b>
<b>Payments</b>		
Other Legal Advisors Fees And Expenses	1,543,819	46,537,694
Co-Lead Legal Advisors Fees And Expenses	101,330	25,582,685
Provision for Adverse Costs	1,475,618	10,367,249
Liquidators Fees & Expenses	413,073	16,711,814
Cost of 3rd party funding	-	14,284,633
Former Liquidators' and Advisors Fees	-	9,215,062
Other Operational Expenses	162,915	5,925,212
Other Advisors Fees	37,460	4,573,117
IT / eDiscovery	46,526	4,051,047
Cost Awarded for removal of former liquidators	-	3,185,338
Loans to related Stanford Liquidations	-	1,804,518
Exchange Rate Adjustment	(29,451)	(12,953)
<b>Total payments</b>	<b>3,751,290</b>	<b>142,225,416</b>
<b>Net receipts / (payments) before distributions</b>	<b>(3,729,699)</b>	<b>142,867,308</b>
<b>Distributions to creditors</b>		
Banked Distributions		115,471,207
Unbanked & Accrued Distributions		17,519,588
<b>Total distributions to date</b>		<b>132,990,795</b>
Frozen Swiss Assets held for Future Distribution		4,486,118
<b>Surplus</b>		<b>5,390,395</b>
<b>Represented by</b>		
<b>Cash in Hand</b>		<b>37,763,350</b>
Cash held/ accrued for distribution		(17,519,588)
Adverse legal costs provision		(10,367,249)
Frozen Swiss Assets held for Distribution		(4,486,118)
<b>Available balance on hand</b>		<b>5,390,395</b>