

21 July 2016

TO ALL KNOWN DEPOSITORS

Dear Depositor

Caribbean Commercial Investment Bank Ltd – Administrator Appointed (“CCIB”)

The purpose of this letter is to provide you with an update on the affairs of CCIB, together with further information in relation to the steps that I have taken in the administration, the next steps I intend to take and draw to your attention the current absence of funding sufficient to meet the costs of the administration, especially the pursuit of possible claims which will require legal action. This letter should be read in conjunction with my previous letter dated 6 May 2016, and all other letters sent in my capacity as Administrator of CCIB.

The Resolution Plan, Purchase and Assumption Agreement and balance held at CCBL

Despite repeated further requests to the National Commercial Bank of Anguilla (“NCBA”) and the Government of Anguilla for them to provide me with a copy of the Resolution Plan and the Purchase and Assumption Agreement (“P&A”), neither of these documents has been received nor have I been provided with any further information regarding how CCIB’s funds held at Caribbean Commercial Bank (Anguilla) Limited (“CCBL”) as at the date of the appointment of the Conservator will be treated.

On 13 May 2016, my Anguillian legal counsel sent a formal request to NCBA’s counsel to request submission of the Resolution Plan and the P&A. NCBA were prepared to provide these to me, subject to the consent of Mr. G Moving, the Receiver of CCBL, Mr. Moving has subsequently refused to provide this consent. In view of this I have no option but to seek the assistance of the Court, I intend to make an application to the Court shortly.

According to publicly available information, deposits held at CCBL have been transferred to NCBA which has in turn guaranteed the repayment of these up to EC\$2.8 million to the extent that the deposits qualify as “deposits” within the meaning of the Banking Act 2015 (the “NCBA Guarantee”).

According to CCIB’s records, at the date of my appointment, it held approximately US\$38 million (being some 99% of its reported assets) at CCBL. However, I now have some clarification of the underlying position to which I refer below. Based on the information available to me, CCBL’s assets, but not its liabilities, have been transferred to NCBA.

As advised above, I have no definitive information regarding how CCIB's funds held at CCBL as at the date of the appointment of the Conservator will be treated and whether they will be eligible for protection, in aggregate, up to EC\$2.8m as noted above. The Receiver of CCBL has however indicated they will not be eligible to receive this protection as they consider the funds to be a placement rather than a deposit. I have taken legal advice in relation to this and my position remains that the funds placed by CCIB at CCBL constitute a deposit and therefore CCIB should, without prejudice to any other claims it has, qualify for the NCBA Guarantee. My lawyers will be putting my position to NCBA in the next few days and, in the event that this is not accepted, I will (subject to funding) take appropriate legal action to protect CCIB's rights.

Funding the Administration

CCIB has very limited liquid assets available to it. This letter details the steps I am taking to recover CCIB's assets for the benefit of its creditors. It is, however, unclear at this point what the timing and quantum of any recovery will be.

CCIB's management accounts, at the date of my appointment, recorded recoverable receivables of US\$560,000 in respect of loans and advances made to customers ("Loans"). I have undertaken a detailed analysis of CCIB's loan portfolio and have determined that some US\$5 million is due to CCIB in respect of Loans, however a large proportion, some US\$4.1 million, is significantly in arrears and in default.

To date, I have realised US\$35,000 from the Loans but it seems likely that a further recovery of some US\$130,000 can be expected shortly following a settlement I have made with a debtor. The timing and quantum of future recoveries is uncertain, although some recovery can be expected. I am taking steps to maximise the recovery from the Loans in the most cost effective way. This will include enforcing the security CCIB holds in the event that any loan remains in default and the debtor is unable to produce a satisfactory repayment plan.

A large number of the Loans are secured by, *inter alia*, real estate in Anguilla, the British Virgin Islands and/or St Maarten. In the event that enforcement is required against assets, it would take, due to the current conditions in these markets, a considerable period of time, possibly years, to realise the properties and therefore make any recovery from the loans. I am also considering whether the Loans can be sold to a third party but this option, if available, is unlikely to be progressed quickly.

At the date of this letter, I hold cash on behalf of CCIB amounting to US\$35,000 but as noted above, with the prospect of further receipts of US\$130,000 in the near future. In view of the uncertainty of future realisations, I am facing a significant funding shortfall, which if not addressed, will have a material impact on the steps I can take in the administration. By this, I mean there are steps, including legal proceedings, I may wish to take which would be in the interests of depositors. I should add that to date I have been prepared to continue to incur day to day costs in running CCIB to secure its estate, including certain legal proceedings in Anguilla (which have also been commenced by me on behalf of National Bank of Anguilla (Private Bank & Trust) Ltd, "PBT"), and on the expectation that the costs will be recoverable from future realisations.

Going forward, bringing claims against third parties will incur significant legal costs. Depositors may be aware that I have commenced bankruptcy proceedings in New York on behalf of PBT in a matter I consider to be of potential benefit to PBT's depositors. The initial focus of the proceedings is to obtain disclosure from Bank of America of an account into which we believe money placed by depositors was upstreamed to National Bank of Anguilla. The Bankruptcy proceedings may also be used to bring certain claims including but not limited to challenging transactions entered into by CCIB (i.e. the upstreaming of funds to CCBL) during the period of up to 6 years before the filing date.

Similar proceedings could be commenced on behalf of CCIB but I do not have money available to meet the costs of doing this, including the costs of retaining US legal counsel. I estimate these initial costs could amount to US\$250,000. However, until the following steps have been completed in respect of PBT I do not intend to consider commencing similar proceedings in the name of CCIB:

1. Full disclosure from the Bank of America;
2. Receipt of advice from US counsel on causes of action available under US law;
3. Consideration of the above points and assessing the likely value to CCIB's estate of progressing an action in New York; and
4. Securing funding if my assessment is positive.

After obtaining the above information, in the event I consider it is appropriate to commence proceedings in the United States, I will need to consider the options available to fund the action. One option is for the depositors, who have the economic interest in the administration, to provide funding. Money would be advanced pursuant to a loan agreement whereby the lender(s) would recover their lending (plus an agreed rate of interest) in priority to CCIB's creditors from the realisations ultimately made by CCIB.

The funding required, for an action in New York of US\$250,000, could be provided by any number of depositors. A loan agreement would be entered into with each lender who would recover their advances from recoveries made. If there were a shortfall, for example recoveries amounted to US\$150,000 but advances were US\$250,000, then each lender would recover 60% of their advances. Please note that the lending would be provided to the administration estate of CCIB, and not to me personally and I would not be able to provide any guarantees or undertakings.

Other options could be to seek a litigation funder who would advance money and participate in the recoveries made, over and above the amount of its advances.

Post-conservatorship balances (up to 24 March 2016)

As noted in my letter of 6 May 2016, I have issued proceedings in the Eastern Caribbean Supreme Court in the High Court of Justice (Anguillan Court) (the "Anguillan Court"), the "Claim". The Claim is brought by CCIB and PBT, both acting by me as Administrator, against CCBL and National Bank of Anguilla Limited respectively and NCBA.

The Claim has been served on NCBA 6 May 2016 and I am seeking leave to serve it on CCBL. Because CCBL is in Receivership, consent of the Anguillian Court is required to commence proceedings against CCBL. An application was heard on an ex-parte basis on 19 May, when the Master directed that the application be heard on an inter parties basis on 5 July 2016. At the hearing on 5 July the Master granted CCBL an extension of 14 days in which to file its response to my application and determined that the application for leave be heard on a date to be determined but in any event no later than 31 August 2016.

The Claim seeks, *inter alia*, to recover all funds that CCIB transferred to CCBL since the Conservatorship commenced, whether by way of new deposits placed or assets of CCIB realised after the onset of Conservatorship. The Claim is a proprietary claim to assets held on the basis that they were paid to the recipients in breach of fiduciary duties owed to CCIB. The 'good' assets of CCBL, which I believe include those to which CCIB is entitled as a consequence of the Claim, including any remaining cash held by it at the point of introduction of the Resolution Plan, are believed to have been transferred to NCBA under the Purchase and Assumption Agreement.

I am aware that certain lawyers in Anguilla instructed by depositors are considering other possible claims. I wish to assist them as far as possible, subject to issues of confidentiality. As Administrator, it is important that I prioritise claims I have as resources available to me are limited and therefore, my initial focus will be to progress those claims offering the best chance of success (and which maximise the recovery for all creditors).

I currently believe those matters to be the Claim, seeking a declaration about characterising the inter company balance as a deposit and the US proceedings, if my assessment of the US proceedings is favourable.

Pre – Conservatorship balances

At the date of my appointment CCIB's records show that it held approximately US\$38 million at CCBL. Therefore, even if the deposit protection is honoured, a significant shortfall will remain. The potential claims for recovery of this shortfall remain under consideration and analysis.

If creditors of CCIB have any information regarding the basis upon which CCIB placed funds with CCBL, or they were encouraged to deposit funds with CCIB, I urge them to contact me or a member of my team.

Claims may exist against various parties including but not limited to CCIB's directors, relating to, among other things, how its assets were used, including why they were placed to a large extent with CCBL. Such claims are being considered and analysed.

Extension of Administrator's powers

On 5 May 2016, the Anguillian Financial Services Commission made an application to the Anguillian Court pursuant to Section 31(3) of the Financial Services Commission Act, to extend my powers as Administrator to include those of a Liquidator. The Court made the Order as requested. The extension of my powers means that certain claims that can be brought only by a liquidator are now capable of consideration, subject to the resource constraints to which I have referred.

For the avoidance of doubt, although the additional powers have been granted to me, CCIB remains in administration.

Creditors' Committee

There are many areas of my administration where it would be of assistance to me to learn of the views and wishes of creditors. I am proposing to form a creditors' committee of depositors to enable me to communicate directly and efficiently with a small group of creditors, who would act as a sounding board. Full communications would of course still be sent to the general body of creditors. The committee would not have any formal status.

The Committee would:

- Not be formed under any statute or under any legal requirement in Anguilla;
- Have only an advisory role - it could not direct me or instruct me in any manner;
- Consist of no more than seven members;
- Meet by telephone conference as requested by me or by the members; and
- Not be entitled to receive remuneration or out of pocket expenses.

Therefore, if anyone would like to become a member of the committee, please contact me by e mail at ccib@fticonsulting.com by no later than 5.00pm (BVI time) on 5 August 2016, expressing an interest. If I receive more than seven expressions of interest, I will circulate forms to all depositors so that they can vote on whom they wish to be elected as members of the committee.

In the event that you have instructed counsel in Anguilla, or elsewhere, and you would prefer for your counsel to represent you on the committee please advise me of this and the identity of your counsel.

Should you have any queries with the contents of this letter, please do not hesitate to contact ccib@fticonsulting.com

Yours faithfully

Caribbean Commercial Investment Bank Ltd – Administrator Appointed (“CCIB”)



William Tacon
Administrator