

7 October 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 administration of CCIB. This letter should be read in conjunction with my previous letters and specifically my letter dated 21 July 2016.

The Resolution Plan and Purchase and Assumption Agreement (“P&A”)

In my previous correspondences, I provided updates on my attempts to obtain copies of the Resolution Plan and the P&A, which would help to determine how depositors of CCIB would be treated. I have issued an application to the Eastern Caribbean Supreme Court in the High Court of Justice (Anguillan Court) (the “Anguillan Court”) to the release these documents, with a hearing set down for 11 October 2016. I have also been in discussions with the National Commercial Bank of Anguilla Limited (“NCBA”) to seek release of these documents without the need for the application and thus avoid unnecessary cost. It is expected that the Court will request that NCBA provide me with copies of the P&A with the restriction that its terms must remain confidential under the terms of the disclosure order.

Funds held at Caribbean Commercial Bank (Anguilla) Limited (“CCBL”)

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”). On 22 April 2016, being the date of the appointment of the Receiver to CCBL, approximately US\$37.3 million was owed by CCBL to CCIB.

I have written to both the Receiver and to NCBA to ascertain how this balance will be treated and whether it will be eligible for the NCBA Guarantee up to EC\$2.8 million. I have not received any response from the Receiver, although in a meeting, he advised me that he considered the balance to be a “placement” which is not eligible for protection but gave no reasons or justification for his views. NCBA has responded through its legal counsel who, *inter alia*, states that the CCIB account was not transferred to NCBA under the P&A and as far as NCBA is aware, it remains with CCBL and any future queries should be directed to the Receiver. I disagree with NCBA’s position and as such, I intend to seek a declaration from the Court as to whether or not CCIB is a depositor of NCBA within the meaning of the Banking Act 2015, if no progress can be made on a consensual basis with the Receiver and NCBA.

I am aware of the existence of two Depositor Protection Trusts (the “Trusts”), being one for each of CCBL and National Bank of Anguilla Limited (“NBA”), which were established pursuant to the Bank Resolution Obligation Act 2016 (the “Obligation Act”). It is clear to me and my lawyers that the Trusts were created to protect “large depositors” of CCBL, who are defined as holding deposits in excess of EC\$4 million. The trust fund is to consist of EC\$52 million constituted by payments to the Trusts by the Government of Anguilla as payor.

Despite my best efforts to obtain a better understanding of the Trusts, I have been unable to ascertain any information over and above that which is stated on the face of the Obligation Act, articles in the local press, and short extracts on the website of the Eastern Caribbean Central Bank (“ECCB”). No clarification concerning the status of CCIB’s deposit has been forthcoming from any source.

A number of depositors have noted that the European Convention on Human Rights applies to Anguilla. I have been advised that it would only be applicable when all other local remedies have been exhausted and it is therefore not a matter I am considering while other local remedies are sought.

Post-conservatorship balances (up to 24 March 2016)

As noted in previous correspondence, I have issued proceedings in the Anguillian Court, (the “Claim”) on behalf of CCIB (and the National Bank of Anguilla (Private Banking & Trust) Ltd (“PBT”)) against CCBL (and NBA) and NCBA.

The Claim seeks, *inter alia*, to recover all funds that CCIB transferred to CCBL since the Conservatorship commenced (12 August 2013), 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.

As CCBL and NBA are both in receivership, it was necessary for me to seek leave from the Anguillian Court to bring the claim against the two banks in receivership.

On 24 August 2016, the Master of the Court refused leave as she was of the opinion that the claim did not have a realistic prospect of success based on the drafting of the present claim in that it did not join the Conservator Directors as parties to the proceedings (the Conservator Directors were those persons appointed by the ECCB to oversee the operations of CCBL and who in effect ran the operations of CCIB too).

The Master refused leave to appeal and on advice, I have made an application to the Eastern Caribbean Court of Appeal seeking leave to appeal the decision. My application was heard on 6 October 2016 and at the time of writing, I have not been provided with the decision. If the application is granted, I will then proceed to appeal the Master’s decision.

Recovery of loan portfolio

As has previously been advised, CCIB has very limited liquid assets available. My analysis of CCIB's loan portfolio indicates that the book value is in excess of US\$5 million. However a large proportion, some US\$4.1 million, is significantly in arrears and in default.

Since my last letter, I have realised a further US\$161,000 from the portfolio resulting in total realisations of US\$196,000.

Administrator's account of receipts and payments

At the date of this letter, I hold cash on behalf of CCIB amounting to US\$192,420 (including \$15,696 held in the escrow account of my Anguillian legal counsel).

Payments have been made from realisations to meet out of pocket expenses incurred by myself and my legal counsel.

In addition, I have drawn fees in the amount of US\$8,550. These fees were funded by CCB and represented 75% of my time costs incurred for the month of February 2016. Other accrued fees currently remain unpaid. All fees will be subject to approval of the Anguillian Court.

I attach at Appendix 1 an account of my receipts and payments for the administration to date.

Chapter 11 bankruptcy

In my previous report, I indicated that I have commenced bankruptcy proceedings in New York on behalf of PBT as I considered, after taking legal advice in New York and Anguilla, that such action would likely be of benefit to PBT's depositors, from the disclosure of information which would not otherwise be available either on a timely basis, or even at all, without intervention of the US Courts. The initial focus of the proceedings was to obtain disclosure from Bank of America of an account into which I believe money placed by depositors of PBT was upstreamed to NBA. An identical upstreaming process occurred in CCIB and CCBL. At the time I made the application in New York for PBT to be placed into Chapter 11 Bankruptcy, I did not have sufficient funds available to initiate the same proceedings for CCIB. I sought external funding but those efforts were unsuccessful. I now have sufficient funds available to meet the cost of an application in New York.

I am now considering placing CCIB into Chapter 11 in the United States, in view of the useful information I obtained appertaining to PBT and the legal options that might be available under US law.

Creditors' Committee of depositors

I previously sought nominations to form an informal creditors' committee of depositors to enable me to communicate directly and efficiently with a small group of creditors. Three depositors nominated

themselves with the first meeting having taken place on 5 October 2016. I will continue to provide regular updates to the general body of creditors.

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



William Tacon
Administrator

Encl.

APPENDIX 1

Caribbean Commercial Investment Bank Ltd - Administrator Appointed Receipts and Payments Account From 22 February 2016 to 4 October 2016

	<u>US\$</u>
Receipts	
Loan Receipts*	197,783.47
Contribution to Administration Costs from CCB	12,913.54
Total Receipts	<u>210,697.01</u>
Payments	
Administrator's Fees	(8,550.38)
Administrator's Expenses	(7,619.88)
Bank Fees	(234.00)
Legal Expenses	(1,872.40)
Total Payments	<u>(18,276.66)</u>
Net Receipts and Payments	<u>192,420.35</u>

* US\$15,696 is currently held in Fontaine and Associates escrow account