

**IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN**  
**CHANCERY DIVISION**

**IN THE MATTER of THE COMPANIES ACT  
1931**

and

**IN THE MATTER of KAUPTHING SINGER &  
FRIEDLANDER (ISLE OF MAN) LIMITED**

and

**IN THE MATTER of THE JOINT PETITION OF  
KAUPTHING SINGER & FRIEDLANDER (ISLE  
OF MAN) LIMITED and THE FINANCIAL  
SUPERVISION COMMISSION dated the 9th  
day of October 2008**

**THIRD AFFIDAVIT OF DAVID C. LOVETT**

I DAVID C. LOVETT of AlixPartners Limited, North Audley Street, London being sworn make Oath and say as follows:

1. I am the same David C. Lovett who has previously sworn an affidavit in this matter. As before, I am authorised by AlixPartners to make this Affidavit.

2. Where the statements contained within this Affidavit are within my own knowledge, they are true. Where the statements are derived from information given to me, I state the source of that information and the statements are true to the best of my knowledge, information and belief. Where I comment on the actions and intentions of the Isle of Man Treasury, I have the authority of the Treasury Minister so to do.
3. I refer to my First and Second Affidavit sworn herein, by way of background. Where defined terms were used in my First and Second Affidavits, they shall be adopted and used herein.

### **Privilege & Confidentiality**

4. To the extent that reference is made herein to documents not exhibited hereto (or information derived from such documents), those documents (or information) are either the subject of legal professional privilege (which is not intended to be waived hereby) or confidentiality obligations imposed upon AlixPartners by virtue of a Non-disclosure Agreement entered into with the Liquidators Provisional. Nothing contained herein, and in particular (but without limitation), the fact that such documents (or information) are referred to herein is intended to waive privilege or breach such confidentiality obligations.
5. To the extent that reference is made herein to advice provided to Treasury, such advice remains confidential and privileged and nothing contained herein is intended to waive such privilege or confidentiality.
6. There is now produced and shown to me marked "DCL1" a paginated bundle of documents to which I shall refer herein. Save where otherwise indicated, references to pages are to pages in that bundle.

## **Background**

7. As stated in my previous Affidavits, AlixPartners has been retained by the Isle of Man Treasury to assess the situation pertaining to KSFIOM and the impact of the appointment of a liquidator over KSFIOM, with, in particular, a view to investigating the possibility of an orderly wind down or restructuring of KSFIOM, as an alternative to a traditional liquidation.
8. On 27 November 2008, at the request of the Isle of Man Treasury, the Petition was adjourned until 29 January 2009, to permit AlixPartners to progress a review of the financial position of KSFIOM, with a view to formulating proposals (if any) for the restructuring of KSFIOM.
9. On 15 January 2009, I swore my Second Affidavit herein.
10. In paragraph 14 of my Second Affidavit, I briefly outlined the aims of a potential scheme of arrangement that was under consideration.
11. I explained, in paragraph 15 thereof, how it was proposed that such aims be achieved.
12. In paragraph 19 of my Second Affidavit, I indicated that certain key decisions and/or responses were required from (i) the Treasury; (ii) the FSC; (iii) the Liquidators Provisional; (iv) the banks which would otherwise be required to contribute to the DCS; and (v) creditors.
13. The purpose of this, my Third Affidavit, is to update the Court and creditors with regard to the matters identified in paragraph 19 of my Second Affidavit and to provide further detail as regards the scheme of arrangement ("the Scheme of Arrangement") which, in light of the feedback received, I understand from the Treasury is now intended to be

proposed (subject to certain outstanding legal and practical issues being overcome).

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### **The Potential Scheme of Arrangement**

14. As the Court will be aware, a scheme of arrangement is a compromise or arrangement between a company and its creditors (or a class thereof) which is sanctioned by the Court under section 152 of the Companies Act 1931 following approval of the said scheme by a majority in number representing three-fourths in value of the creditors (or class of creditors as the case may be), present and voting either in person or by proxy at a meeting convened by the Court for the purpose of approving such a scheme.
15. At pages 1 to 3 of Exhibit "DCL 1" can be found a document setting out key elements of the potential Scheme of Arrangement.
16. At pages 4 to 13 of Exhibit "DCL 1" can be found a document which is intended to provide certain financial information as regards the effect of the potential Scheme of Arrangement.
17. At pages 14 and 15 of Exhibit "DCL 1" can be found an illustrative timetable for bringing the potential Scheme of Arrangement into effect.
18. At page 6 can be found details of the proposed payment schedule under the potential Scheme of Arrangement. The key points to note from this page are as follows:
  - a. It is proposed that there will be three scheduled dividends, followed by further unscheduled dividends until all assets are realised and dividends paid;

- b. The dividends shown in the right hand column are anticipated dividends which AlixPartners have estimated as likely to be payable, based upon the information that has been made available to us by the Liquidators Provisional;
- c. All creditors would be entitled to and would receive a *pari passu* dividend. Whether such dividends would fall below, meet or exceed the anticipated levels shown in the right hand column would depend upon the sums available from asset realisations at that time.
- d. To the extent that a creditor who would otherwise be entitled to make a claim under the DCS ("a Depositor") would, by way of *pari passu* dividend, receive less than the applicable assured lump sum shown in the left hand or middle columns (as applicable) for any particular scheduled dividend, funds would be made available by the Treasury to the Company by way of a bridging facility ("Top Up Funding") to ensure that the applicable assured lump sum payments will be made, notwithstanding the shortfall from asset realisations. The effect of this, is that all Depositors will receive up to 3 assured lump sum payments that will ensure that they receive no less than that to which they would be entitled under the DCS;
- e. The effect of making the assured lump sum payments to Depositors is shown in the lower table on page 6; namely:
  - i. Within 3 months of the Scheme of Arrangement taking effect, 54% of all Depositors (representing 24% by value of total creditor claims) would have been repaid in full;

- ii. Within 12 months of the Scheme of Arrangement taking effect, 65% of all Depositors (representing 35% by value of total creditor claims) would have been repaid in full;
  - iii. Within 2 years of the Scheme of Arrangement taking effect, 71% of all Depositors (representing 49% by value of total creditor claims) would have been repaid in full and all claims which could otherwise have been made against the DCS will have been satisfied in full;
- 19. Page 7 provides a comparison between how we would anticipate the Scheme of Arrangement would perform and likely recoveries for creditors in the event that the Scheme of Arrangement did not proceed, KSFIOM went in to liquidation and the DCS was triggered. We have applied the same assumptions to our calculations as to the anticipated outcome in the proposed Scheme of Arrangement and the estimated overall dividend in a liquidation to provide a fair comparison for creditors.
- 20. Therefore, it should be emphasised that our estimated overall dividend to creditors of 65p/£ that is shown in these pages is by no means certain or guaranteed. Depending upon the value of assets recovered, realised, and the resolution of various outstanding issues (including claims to set-off), the overall dividend to creditors may be greater or less than this estimate.
- 21. As can be seen on page 7, whilst the final estimated recovery for individual creditors is the same in either case, we anticipate that under the Scheme of Arrangement more Depositors would be paid in full quicker and non-Depositor creditors and those Depositors with claims against KSFIOM in excess of the amount they could otherwise claim under the DCS would receive prioritised and accelerated payments. This would be achieved by the Scheme of Arrangement providing:

- a. that where a Depositor receives the benefit of Top Up Funding, the Treasury receives a right of subrogation with respect to that Depositor to the extent of Top Up Funding received; and
  - b. that the recovery by Treasury under such subrogation rights would be deferred until all creditors had received at least 60p/£ by way of *pari passu* distributions and all Depositors would have received their full entitlement as if they had a claim under DCS. Thereafter, a catch up payment to Treasury, as provider of the Top Up Funding, would be due to bring all recoveries to 60p/£. Thereafter, all creditors (including Depositors) would continue to receive *pari passu* distributions.
22. Pages 8 to 12 provide some worked examples showing how such payments would affect individual depositors with claims against KSFIOM of (i) under £50,000; (ii) between £50,000 and £75,000; (iii) between £75,000 and £100,000; (iv) between £100,000 and £150,000; and (v) above £150,000. The effect upon Non-Depositor creditors would be identical to that upon the above £150,000 category.
23. At page 13 can be found a high level comparison between what I believe to be the features of the potential Scheme of Arrangement and the default position of a liquidation and triggering of the DCS.
24. It is anticipated that the Depositors can expect the same final recovery under either the liquidation/DCS or the proposed Scheme of Arrangement. There are however, various advantages under the proposed Scheme of Arrangement which should benefit the Depositors.
25. I should emphasise that whether or not the Scheme of Arrangement is proposed will depend upon, amongst other things: (i) agreement being reached with the banks that would otherwise be obliged to contribute in

the event of the DCS being triggered; (ii) the approval of Tynwald to Treasury financially supporting the provision of the Top Up Funding and any consequential amendments to the DCS Regulations; (iii) indicative support being received from all creditor constituencies; and (iv) the Liquidators Provisional and the FSC agreeing jointly to promote the potential Scheme of Arrangement.

26. In paragraph 21 of my Second Affidavit, I indicated that a further adjournment of the winding up petition of at least 60 days would be required to provide time for all outstanding issues to be resolved, appropriate documentation to be prepared and the necessary application(s) to Court be made for the convening of a meeting of creditors to consider and vote upon the proposed Scheme of Arrangement.

27. At pages 14 and 15 can be found an illustrative timetable that I have prepared with the assistance of the Treasury's advocates, Gough & Co., showing the primary steps that are likely to be required to bring the potential Scheme of Arrangement into effect. The dates contained therein are merely indicative but are intended to assist creditors in understanding the timescales involved. Efforts will be made, where possible, to shorten periods between certain of the steps to ensure that the effective date of the potential Scheme of Arrangement, if approved by the creditors, is as soon as possible.

**SWORN** at London :

This 26 day of January 2009

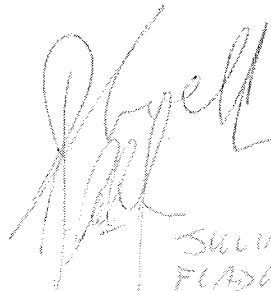
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Before me:

:

A Commissioner for Oaths

:



SULLIVAN SCHAFFNER  
FIDELITY COL  
25 NORTH ROW  
LONDON N14 6SS



Serial no. 2008/94

**IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN  
CHANCERY DIVISION**

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COMPANIES ACT 1931**

**And**

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JOINT PETITION OF  
KAUPTHING SINGER &  
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FINANCIAL**

**SUPERVISION**

**COMMISSION dated the  
9th day of October 2008**

**THIRD AFFIDAVIT of  
DAVID C LOVETT**

## **SCHEME OF ARRANGEMENT – KEY ELEMENTS**

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### **Effect of Scheme on Creditor Rights**

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1. Creditors would exchange current rights for Scheme Rights (which would be defined in the Scheme Document);
2. Scheme Rights would include:
  - a. The right to 3 dividend payments on scheduled dates (“the Scheduled Dividends”);
  - b. The right to such further dividends after the initial 3 scheduled payments as may become available from asset realizations (“the Further Dividends”); and
  - c. Compensation rights that would otherwise arise under DCS will be met in full through 3 assured payments (“Assured Payments”) of which the Scheduled Dividends may form part;

### **Top Up Funding and Assured Payments**

3. Each of the Assured Payments would be supported by bridging finance (“Top Up Funding”) to the extent that sums available to pay such amounts from Scheduled Dividends were insufficient at the time of each Scheduled Dividend payment;
4. Amounts paid from Top Up Funding would be recovered by way of subrogation from sums due to depositors, such recovery to be deferred until all creditors had received a minimum dividend of 60p/£;
5. Banks that would otherwise be liable to contribute to the DCS would participate in the provision of Top Up Funding alongside Treasury in broadly the same way as they would contribute to DCS;
6. The amount available for Top Up Funding would not be affected by any subsequent bank failure that triggered the DCS;

### **Interaction with Early Compensation Scheme**

7. Sums paid to depositors under the Early Compensation Scheme would be deducted from assured amounts due from the Scheduled Dividends;

### **Record Date – Set Off, Currency Exchange, and Interest**

8. A Record Date would be set for a date before the Scheme Meeting at which creditors would be asked to vote to approve the Scheme;
9. The Record Date would be treated as the equivalent of the date of the making of a winding up Order for the purpose of calculating creditor entitlements, both for voting and distribution purposes, accordingly:
  - a. Automatic self-executing set-off would occur on the Record Date;
  - b. All foreign currency claims by or against KSFION would be converted to Sterling on the Record Date;
  - c. Contractual interest (if any) would be applied to all claims by or against KSFION up to and including the Record Date;

### **Interaction with DCS**

10. The DCS would be amended to provide that no claims could be made against the DCS arising from default by KSFION.

### **Effective Date of Scheme and Implementation of Moratorium**

11. Upon approval of the Scheme by the requisite majorities and sanction by the Court, the Court's Order would be filed with the FSC and the Scheme would take effect;
12. Upon the Scheme taking effect, a moratorium would be imposed preventing creditors from bringing proceedings against KSFION, save for the purpose of enforcing Scheme Rights;

### **Conclusion of Winding Up**

13. Upon the Scheme taking effect, the Winding Up Petition would be dismissed and the Liquidators Provisional discharged from office;
14. Once approved by the Court, the fees and expenses of the Liquidators Provisional would be payable by the Scheme Administrators from the assets of KSFION prior to any dividend being paid;

### **Termination of Scheme**

15. The Scheme would terminate once the Scheme Administrators concluded that all realistic realizations had been achieved;

16. Creditors would be notified in writing of termination of the Scheme.

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KSFlOM

Illustrative Scheme of Arrangement

Draft for Discussion. Strictly Confidential.

26/01/2009

*Legal Disclaimers*

This discussion Document is intended to provide a general overview in relation to some issues which are relevant to Kaupthing Singer & Friedlander (Isle of Man) Limited in provisional liquidation (KSFlOM) – it is not a substitute for specific professional advice and should not be relied upon as such. This Document has been prepared in good faith but no representation or warranty is given as to the accuracy of the information supplied within it.

This Document is based, in whole or in part, on projections or forecasts of future events. A forecast, by its nature, is speculative and includes estimates and assumptions which may prove to be wrong. Actual results will differ from those projected or forecast. Those differences may be material. As such illustrations in this Document are not guarantees of future performance and involve risks and uncertainties which are not possible to predict.

The recipients of this Document accept that they will make their own investigation and analysis before making any decisions in relation to their affairs connected with KSFlOM.

Any transaction terms referred to in this Document are non binding and purely illustrative, for discussion purposes and are subject to contract between all of the appropriate parties involved and Court approval as necessary.

No representation or warranties are provided by the Isle of Man Treasury or KSFlOM or by any of their respective representatives and advisors in respect of any financial figures, outcome illustrations or any other matters referred to in this Document.

Illustrative Scheme of Arrangement - Overview

26/01/2009

- ▶ An alternative to a Liquidation will be a Scheme of Arrangement ("SoA" or "Arrangement") which demonstrates financial and administrative benefits for the creditors.
- ▶ A Scheme of Arrangement is a detailed proposal agreed by the creditors and approved by the Court.
- ▶ Financial objective is to provide faster and higher repayments to creditors.
- ▶ The administrative objective is to create a streamlined claims' management, funding and repayment procedure.

**Key Features:**

- |                      |                                                                                                                                                 |                                                                                                                               |
|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| ▶ <i>Liquidity</i>   | Combine multiple sources of funds to 'top-up' KSFlotM realisations.                                                                             | ▶ Create a pool of over £400m within 2 years.                                                                                 |
| ▶ <i>Certainty</i>   | Minimum assured repayments against an agreed payment plan.                                                                                      | ▶ Accelerate repayment of over £250m of DCS like claims and all such claims fully paid within 2 years.                        |
| ▶ <i>Priority</i>    | Repayment of top-up funding is deferred until a minimum return is achieved for all creditors (other than the providers of the top up funding)   | ▶ Prioritise £50m to £100m of funds for the higher value creditors                                                            |
| ▶ <i>Efficiency</i>  | The Arrangement replaces both the liquidation and the DCS procedures as a single process to deal with creditor claims and fund their repayment. | ▶ This 'hybrid' process will be more efficient in terms of timing and costs for the benefit of all creditors.                 |
| ▶ <i>Early exits</i> | Combination of lump sum and pari passu payments ensures the early exit of smaller balances.                                                     | ▶ 50%+ of depositors fully repaid within 3months:<br>60%+ fully repaid within 12 months:<br>70%+ fully repaid within 2 years. |

## KSFlOM

### Illustrative Scheme of Arrangement - Payment Schedule

## Draft for Discussion, Strictly Confidential

26/01/2009

#### Type of Payment

Assured Lump-Sum Payments

Estimated KSFlOM Dividends on a  
pari passu basis

#### Funded by

KSFlOM realisations plus Top-up  
funding from Treasury/Banks

KSFlOM  
Realisations

#### Recipients

Deposit holders:  
Individual, Joint,  
Trust

Deposit holders:  
Corporate  
(including  
insurance  
companies)

To all Creditors

#### Payments Plans

	£	£	%
Within 3 months - 1st Lump Sum	20,000	8,000	12.5%
Within 12 months - 2nd Lump Sum	15,000	6,000	7.5%
Within 2 Yrs - 3rd Lump Sum	15,000	6,000	15.0%
Total Lump Sum Target	50,000	20,000	30.0%
			65.0%

#### Resulting Effect for Depositors and Creditors

	No. of depositors paid out in full as a % of total	Total liabilities repaid as a % of total
Within 3 months	54%	24%
Within 4 to 12 months	65%	35%
Within 2 Yrs	71%	49%
Subsequent dividends	71%	72%

#### Notes:

- (i) In this illustration realisations are targeted to be 65% of book values but this is subject to a number of fundamental issues being resolved;
- (ii) For the comparatives that follow, SoA and liquidation realisation are assumed to be the same with no account being taken of an improved return in a SoA
- (iii) More time is required for the issues referred to above to be resolved and for the assessment of the prospects of an improved return from the KSFlOM iban book in so far as the KSFlOM realisation dividends are insufficient to fund the Assured Lump-Sums, top-up funding will have to be made available from the Government/Bank levies (in similar fashion and in lieu of DCS funding commitments) to make these payments.
- (iv) The Top-up funding levels in this illustration are variable depending on the dividends declared at the time of each assured payment.
- (v) Top-up funding will accumulate and not be repaid using KSFlOM realisations, until all other creditors have received 60% of their claim
- (vi) Such delayed repayment of the Top Up funds directly enhances the payment to the other creditors until the return of 60% of the claims
- (vii) These illustrations ignore the effect of any early payments on account, in lieu of a DCS, made by the Government prior to the SoA or a liquidation commencing

Key Financial Milestones

	Within 3 months	Within 12 months	Within 2 Years	Balance	Total
Expected dividends in Liquidation/DCS	10.0%	5.0%	15.0%	35.0%	65.0%
Expected dividends in SoA	12.5%	7.5%	15.0%	30.0%	65.0%
Total liabilities repaid as a % of total in Liquidation/DCS	10%	27%	45%	72%	72%
Total liabilities repaid as a % of total in SoA	24%	35%	49%	72%	72%
No. of depositors paid out in full as a % of total in Liquidation/DCS	0%	0%	71%	71%	71%
No. of depositors paid out in full as a % of total in SoA	54%	65%	71%	71%	71%

Notes:

- (i) The above comparison assumes that the DCS is not affected by any further financial institution failure between now and 22 October 2009.
- (i) SoA should pay a higher initial dividend as the Government backing is expected to help keep the reserves held back to a minimum.
- (ii) Subsequently, SoA is assumed to pay higher dividends due to the dividend on claims repaid by Government/Banks Top Up funding being deferred



**Illustrative Scheme of Arrangement (SOA) v Liquidation/DCS - Worked Examples**

**For Individual Balances Under £50k**

First Run < 3months  
 Second Run < 12 months  
 Third Run < 2 yrs  
 Fourth Run < 3 yrs  
 Fifth Run Longer Term  
 Sixth Run Longer Term

SOA Dividend	SOA Lump sum
12.5%	20,000
7.5%	15,000
15.0%	15,000
15.0%	0
10.0%	0
5.0%	0
65.0%	50,000

Standalone Repayment of DCS Cover	Standalone Liquidation Payments
0%	10.0%
70%	5.0%
30%	15.0%
0%	10.0%
0%	10.0%
0%	15.0%
100%	65.0%

Comparative % of total balance paid at the end of each run	Balance Band under £50k
80%	SoA
100%	DCS/Liq
100%	
100%	
100%	
100%	
100%	
e.g. Bal	25000

Notes:

(i) DCS Like Recovery

Quicker

(ii) Dividend Based Recovery

n/a

**This worked example is for an individual deposit balance of £25,000**

**Illustrative Scheme of Arrangement (SOA) v Liquidation/DCS - Worked Examples**  
**For Individual Balances Between £50k and £75k**

First Run < 3 months  
 Second Run < 12 months  
 Third Run < 2 yrs  
 Fourth Run < 3 yrs  
 Fifth Run Longer Term  
 Sixth Run Longer Term

Comparative % of total balance paid at the end of each run	
Balance Band £50k-£75k	
SoA	DCS/Liq
e.g. Bal	65000
31%	10%
54%	54%
77%	77%
77%	77%
77%	77%
77%	77%

Standalone Repayment of DCS Cover	Standalone Liquidation Payments
0%	10.0%
70%	5.0%
30%	15.0%
0%	10.0%
0%	10.0%
0%	15.0%
100%	65.0%

SOA Dividend	SOA Lump sum
12.5%	20,000
7.5%	15,000
15.0%	15,000
15.0%	0
10.0%	0
5.0%	0
65.0%	50000

Notes:  
 (i) DCS Like Recovery

(ii) Dividend Based Recovery

Quicker in first 3 months

Depositors within this band will recover additional sums from higher dividends once total dividends surpass the DCS equivalent payment made to them

**This worked example is for an individual deposit balance of £65,000**

**Illustrative Scheme of Arrangement (SOA) v Liquidation/DCS - Worked Examples  
For Individual Balances Between £75k and £100k**

First Run < 3 months  
 Second Run < 12 months  
 Third Run < 2 yrs  
 Fourth Run < 3 yrs  
 Fifth Run Longer Term  
 Sixth Run Longer Term

SOA Dividend	SOA Lump sum
12.5%	20,000
7.5%	15,000
15.0%	15,000
15.0%	0
10.0%	0
5.0%	0
65.0%	50000

Standalone Repayment of DCS Cover	Standalone Liquidation Payments
0%	10.0%
70%	5.0%
30%	15.0%
0%	10.0%
0%	10.0%
0%	15.0%
100%	65.0%

Comparative % of total balance paid at the end of each run	
Balance Band £75k-£100k	10%
SoA DCS/Liq	41%
e.g. Bal 85000	59%
	59%
	60%
	65%

Notes:

(i) DCS Like Recovery

(ii) Dividend Based Recovery

Quicker in first 3 months

Depositors within this band will recover additional sums from higher dividends once total dividends surpass the DCS equivalent payment made to them

**This worked example is for an individual deposit balance of £85,000**

**Illustrative Scheme of Arrangement (SOA) v Liquidation/DCS - Worked Examples  
For Individual Balances Between £100k and £150k**

- First Run < 3months
- Second Run < 12 months
- Third Run < 2 yrs
- Fourth Run < 3 yrs
- Fifth Run Longer Term
- Sixth Run Longer Term

SOA Dividend	SOA Lump sum
12.5%	20,000
7.5%	15,000
15.0%	15,000
15.0%	0
10.0%	0
5.0%	0
65.0%	50000

Standalone Repayment of DCS Cover	Standalone Liquidation Payments
0%	10.0%
70%	5.0%
30%	15.0%
0%	10.0%
0%	10.0%
0%	15.0%
100%	65.0%

Comparative % of total balance paid at the end of each run	Balance Band £100k-£150k	SoA DCS/Liq
e.g. Bal	130000	
	15%	10%
	27%	27%
	38%	38%
	50%	40%
	60%	50%
	65%	65%

Notes:

(i) DCS Like Recovery

Quicker in first 3 months

(ii) Dividend Based Recovery

Depositors within this band will recover additional sums from higher dividends once total dividends surpass the DCS equivalent payment made to them

**This worked example is for an individual deposit balance of £130,000**

**Illustrative Scheme of Arrangement (SOA) v Liquidation/DCS - Worked Examples  
For Individual Balances Above £150k**

First Run < 3months  
 Second Run < 12 months  
 Third Run < 2 yrs  
 Fourth Run < 3 yrs  
 Fifth Run Longer Term  
 Sixth Run Longer Term

SOA Dividend	SOA Lump sum
12.5%	20,000
7.5%	15,000
15.0%	15,000
15.0%	0
10.0%	0
5.0%	0
65.0%	50000

Standalone Repayment of DCS Cover	Standalone Liquidation Payments
0%	10.0%
70%	5.0%
30%	15.0%
0%	10.0%
0%	10.0%
0%	15.0%
100%	65.0%

Comparative % of total balance paid at the end of each run	Balance Band above £150k SoA	DCS/Liq
e.g. Bal	200000	
12.5%		10%
20%		17%
35%		30%
50%		40%
60%		50%
65%		65%

Notes:

(i) DCS Like Recovery

n/a

(ii) Dividend Based Recovery

Higher up to 60p due to subordination.

**This worked example is for an individual deposit balance of £200,000**

Illustrative Scheme of Arrangement v Liquidation/DCS - High Level Comparisons

Feature	SoA	Liq/DCS
<ul style="list-style-type: none"> <li>▶ Simplicity</li> </ul>	<ul style="list-style-type: none"> <li>▶ A single process and set of rules for claims management</li> </ul>	<ul style="list-style-type: none"> <li>▶ Two claims management procedures</li> </ul>
<ul style="list-style-type: none"> <li>▶ Liquidity</li> </ul>	<ul style="list-style-type: none"> <li>▶ No need for assignment of claims to gain DCS like cover – creditors hold on to their full claim and can directly trace recoveries</li> <li>▶ Combined sources of funds to facilitate payments via a single channel</li> </ul>	<ul style="list-style-type: none"> <li>▶ If relying on the DCS, the creditors have to assign their full claim and all future dividends are routed through DCS Scheme Administrator</li> <li>▶ Liquidation Initial distribution could be early but subsequent distribution for DCS claimants will depend on DCS pay-outs</li> <li>▶ DCS/Government unlikely prior to Nov 2009</li> <li>▶ DCS/Bank: annual levies could stretch to over a number of years</li> </ul>
<ul style="list-style-type: none"> <li>▶ Certainty</li> </ul>	<ul style="list-style-type: none"> <li>▶ Funding for DCS equivalent payments from the combined source is more certain and not exposed to any 2<sup>nd</sup> failure</li> </ul>	<ul style="list-style-type: none"> <li>▶ May be impacted by subsequent failures</li> </ul>
<ul style="list-style-type: none"> <li>▶ Transparency</li> </ul>	<ul style="list-style-type: none"> <li>▶ Creditors will have details of the SoA and insight into loan book management business plans</li> <li>▶ A say in the implementation of the SoA</li> </ul>	<ul style="list-style-type: none"> <li>▶ Annual reports principally covering past receipts and payments</li> <li>▶ Also tracing of realisation into repayments will be via the DCS for those assigning their claims</li> </ul>
<ul style="list-style-type: none"> <li>▶ Costs</li> </ul>	<ul style="list-style-type: none"> <li>▶ Frequent and more detailed looking-back and looking-forward reports</li> <li>▶ Single process for managing claims and repayments is likely to cost less</li> <li>▶ The benefit of such reduction will flow directly to the creditors</li> </ul>	<ul style="list-style-type: none"> <li>▶ Liquidations costs plus costs associated with the implementation of the DCS.</li> </ul>
<ul style="list-style-type: none"> <li>▶ Court Jurisdiction</li> </ul>	<ul style="list-style-type: none"> <li>▶ Once effective and the winding-up order is discharged, the affairs of the company no longer fall within the jurisdiction of the Courts</li> </ul>	<ul style="list-style-type: none"> <li>▶ Court has jurisdiction and can be approached for directions etc; the Liquidator can also get foreign court recognition.</li> <li>▶ Liquidator may have some powers of investigation and recovery which are not available under a SoA.</li> </ul>
<ul style="list-style-type: none"> <li>▶ Loan Book Management</li> </ul>	<ul style="list-style-type: none"> <li>▶ Managed bank scenario with no new business but with sufficient credit management flexibility, may improve the final realisations</li> </ul>	<ul style="list-style-type: none"> <li>▶ Credit management during a liquidation is usually more restricted</li> </ul>
<ul style="list-style-type: none"> <li>▶ Outcome</li> </ul>	<ul style="list-style-type: none"> <li>▶ A better outcome is possible through cost containment and through better management of the loan book</li> </ul>	<ul style="list-style-type: none"> <li>▶ Base case financial outcome for the creditors will be the same as would be the case by realisations in a liquidation and payments via the DCS</li> </ul>

<u>Item</u>	<u>Action</u>	<u>When?</u>
1	<ul style="list-style-type: none"> <li>• Resolve all outstanding legal issues</li> <li>• Draft: (i) Scheme Document, (ii) Explanatory Statement, (iii) Proxy Forms, (iv) Notices, (v) Claim Forms, (vi) Petition, and (vii) Affidavit(s) in Support</li> <li>• Resolve position with Banks and draft underlying participation agreement</li> <li>• Obtain Tynwald conditional approval of Scheme and conditional amendment to DCS</li> </ul>	1 February to 23 March
2	File Petition and Evidence in Support	week commencing 30 March
3	Ex Parte Hearing for Directions to Call Scheme Meeting	week commencing 6 April
4	Notices of Scheme Meeting to be sent to Creditors	week commencing 13 April
5	Adjudication of claim forms for voting purposes	
6	Record Date	week commencing 11 May (shortly prior to Scheme Meeting)
7	Scheme Meeting	week commencing 11 May
8	Draft and file affidavit reporting on outcome of Scheme Meeting	week commencing 18 May
9	Sanction Hearing	week commencing 25 May
10	File Court Order at FSC – Scheme takes effect	week commencing 25 May

		(immediately following sanction)
11	First Dividend/Lump Sum payment	July/August