



2 February 2017

**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 7 October 2016.

**Chapter 11 bankruptcy**

In my previous letter, I advised that I was considering placing CCIB into Chapter 11 Bankruptcy (“Chapter 11”) in the United States. On 22 November 2016, I successfully petitioned for CCIB to be placed into Chapter 11.

You will have received a letter from the US Bankruptcy Trustee inviting you to a creditors meeting on 2 March 2016. Attendance at the meeting is not compulsory and does not affect your ability to claim against CCIB for any amounts outstanding to you. No additional information will be disclosed at the meeting that is not being provided in this letter or in any subsequent correspondence.

After CCIB was placed into Chapter 11, my legal counsel wrote to Bank of America (“BOA”) and sought information regarding accounts that were held in the name of the CCIB’s parent, the Caribbean Commercial Bank (Anguilla) Limited (“CCBL”). When they placed funds with CCIB, depositors’ money was upstreamed into this account, which then became “co-mingled” with funds belonging to CCBL. I wish to ascertain what happened to CCIB depositors’ money and if appropriate, to pursue claims for its recovery. The majority of the information sought from BOA has now been delivered and is in the process of being analysed to ascertain what if any claims may be available to CCIB.

I am aware that CCIB had a significant investment with Morgan Stanley Smith Barney of approximately US\$9 million, which was realised in November 2013, shortly after the appointment of the Conservator to CCBL. I have ascertained that the proceeds from the investment were transferred to a BOA account in the name of CCBL. Work is being undertaken to ascertain what happened to those funds after the transfer to the CCBL BOA account together with other amounts that were sourced from CCIB and its depositors.

If claims are identified that, in my view and that of my lawyers, should be pursued, I will instruct my legal counsel to prepare a complaint to be filed in the US Bankruptcy Court. I can advise you that I caused a complaint to be filed in the Chapter 11 proceedings of the National Bank of Anguilla (Private Banking & Trust) Limited (“PBT”) in December 2016. That matter is pending.

I will write to depositors about possible complaints in relation to CCIB when my analysis has been completed.

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

In my previous correspondence, I provided updates on my attempts to obtain copies of the Resolution Plan and the Purchase and Assumption Agreement (“P&A”), which would help to determine how depositors of CCIB would be treated. I issued an application to the Eastern Caribbean Supreme Court in the High Court of Justice (the “Anguillian Court”) to the release these documents, with a hearing set down for 12 October 2016. On 18 October 2016, a copy of the P&A was finally received from the legal counsel of the National Commercial Bank of Anguilla Limited (“NCBA”), however I am bound by confidentiality provisions and cannot discuss its contents.

## **Funds held at CCBL**

In my previous letter, I provided known information about the NCBA Guarantee of EC\$2.8 million and the Depositor Protection Trusts. I also confirmed that I had written to NCBA, the Receiver of CCBL and the National Bank of Anguilla Limited (“NBA”) to obtain more information on the guarantee and trust was applicable to the offshore banks. Unfortunately, no meaningful clarification 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 in Anguilla have been exhausted, including a Judicial Review. My lawyers are likely to commence Judicial Review proceedings shortly.

## **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 PBT) against CCBL (and the NBA) and NCBA for recovery of balances due from those parties.

I made an application to the Eastern Caribbean Court of Appeal (“Court of Appeal”) seeking leave to appeal the decision of the Master of the Court, who denied my application to seek leave to pursue claims against CCBL and NBA (both in receivership). Leave to appeal the decision was granted and my appeal has been lodged with the Court of Appeal, with a hearing date expected to be in April 2017.

## **Recovery of loan portfolio**

As has previously been advised, CCIB has limited liquid assets available. Since my last letter, I have realised a further US\$226,000 from the realisation of loans and collection of regular instalments due, resulting in total realisations to date of US\$422,000. A borrower has a significant balance outstanding in excess of US\$3.5 million. I am in the process of enforcing the security held by the bank as all other attempts by me to recover the loan have failed.

## **Approval of the Administrator’s fees and professional costs**

Under the terms of the Court Order by which I was appointed as Administrator, I am required to seek approval of my fees (and those of my lawyers). I made an application to the Anguillian Court for approval of fees and costs incurred to 30 September 2016. At a hearing on 8 December 2016, the Judge

required that I serve the application on the members of the informal Creditors Committee to seek their views. All members of the informal Creditors Committee approved the fees and on 19 January 2017, the Judge approved all fees incurred to 30 September 2016.

### **Creditors Committee**

The most recent meeting of the informal Creditors Committee was held on 19 December 2016 and a further meeting is likely to be held in late February or early March 2017.

### **Summary**

The placement of CCIB into Chapter 11 represents a significant step in being able to identify possible claims. At present, it is too early to predict the outcome. I continue to pursue the post-conservator balances and am in the process of seeking to appeal the Master of the Court's decision not to allow CCIB to pursue CCBL. I also continue to collect the loan book of CCIB and seek to enforce security held in respect of non-performing loans with a view to realising real property assets.

I will continue to keep creditors updated of material developments in this matter as they arise.

Should you have any queries with the contents of this letter, please do not hesitate to contact [ccib@fticonsulting.com](mailto:ccib@fticonsulting.com)

Yours faithfully

Caribbean Commercial Investment Bank Ltd – Administrator Appointed



William Tacon  
Administrator