

10 April 2017

TO ALL KNOWN DEPOSITORS

Dear Depositor

National Bank of Anguilla (Private Banking & Trust) Ltd – Administrator Appointed (“PBT”)

The purpose of this letter is to provide you with an update on the administration of PBT, it should be read in conjunction with my previous letters and specifically that dated 7 October 2016.

Chapter 11 Bankruptcy

As you are aware, PBT was placed into Chapter 11 bankruptcy on 22 June 2016.

In my previous correspondence, I advised that statements had been received from Bank of America (“BofA”), for an account in the name of PBT’s parent, the National Bank of Anguilla Limited (“NBA”), which held money from PBT’s depositors. The statements were reviewed and a complaint was formulated against the Eastern Caribbean Central Bank (“ECCB”), the National Commercial Bank of Anguilla Limited (“NCBA”) and the Receiver of NBA (collectively “the Respondents”), which was lodged with the US Bankruptcy Court on 16 December 2016.

The Respondents requested an extension until 27 February 2017 to respond to the complaint, which was granted. In their replies, the Respondents contended:

- No jurisdiction – The Respondents did not carry on business or had no presence in the United States.
- Inconvenient forum – The Respondents considered that any action should be brought in Anguilla rather than the United States.
- Immunity – The ECCB claimed they had statutory immunity.

On 20 March 2017, I submitted a response and amended complaint, which made reference to the recent decision in the Anguillian Court that the ECCB, by its actions, had lost its statutory immunity in Anguilla (I understand the ECCB has appealed this judgement but no hearing has taken place). The Respondents are able to submit a motion to dismiss the complaint by 28 April 2017, with our response to such a motion (if submitted) due by 26 May, to which the Respondents can reply by 9 June 2017.

Should depositors wish to view documents filed in the US Court with respect to the complaint, they can be accessed using the following link:

[Documents](#)

Post-conservatorship balances (up to 24 March 2016)

As noted in previous correspondence, I have issued proceedings in the Anguillan Court, on behalf of PBT, against NBA and NCBA.

As NBA is in receivership, it was necessary for me to seek leave from the Anguillan Court to bring the claim against NBA, which was not granted by the Master of the Court. I made an application to the Eastern Caribbean Court of Appeal seeking leave to appeal the decision, which was granted. The appeal will be heard in October 2017.

Injunction

In a recent decision by the Court of Appeal in Anguilla, the Court held that I as Administrator was not entitled to freeze funds at the BofA account in the name of NBA referred to above.

I decided not to incur the significant cost of an appeal to the Supreme Court in London and the freeze did not have any material effect on the conduct of the administration or any outcome in the case. The decision does not prevent me from seeking additional information from BofA.

I am aware that there has been local media coverage in Anguilla of the judgment, including by the Chief Minister. Despite the highly inaccurate statements made, I do not intend to join the public discussions, as media involvement would serve little or no purpose and could adversely affect my legal strategy.

Judicial Review

A number of depositors have indicated a desire to make an application to the European Commission of Human Rights ("ECHR") to contest the unfair treatment of the depositors of PBT with respect to protection afforded to depositors of NBA as part of the Resolution Plan. In order to make an application to the ECHR, all domestic legal avenues would first need to be exhausted, which includes a judicial review.

An application to commence a judicial review process to challenge various decisions made which are adverse to PBT was filed on 10 March 2017, the respondents being the ECCB, the Government of Anguilla and the Receiver.

The main points of the judicial review are the treatment of PBT which is being denied protection up to EC\$2.8 million and its exclusion from participation in the Depositors' Protection Trust for large depositors.

I will update depositors further on the progress of the judicial review in due course.

Asset Recoveries

With respect to the recovery of assets, I can confirm that:

- Collections continue to be received from performing loans on a monthly basis;
- Two borrowers agreed to settle their loans early, one being delinquent for some time;
- Settlement negotiations are continuing with other parties with non-performing loans, including one of the largest borrowers on the loan book;
- A complaint has been filed in the US against a borrower, because it was considered, after I took US legal advice that there was a better chance of recovery if the action was undertaken in the US rather than Anguilla, even though the underlying property securing the loan was located in Anguilla;
- The completion of the sale of a property in St. Maarten is expected to occur imminently; and
- I continue to work on the rectification of a title of a block of land in Anguilla, which has been incorrectly registered in the name of NBA rather than PBT. This land will be offered for sale once the title has been rectified.

Administrator's Account of Receipts and Payments

I attach at Appendix 1, my account of receipts and payments for the period 22 February 2016 to 27 March 2017.

Some of the key items to note are:

- The Administrator's fees relating to the administration in Anguilla required approval from the Anguillian Court, which was granted on 25 January 2017;
- The legal fees incurred in dealing with the Chapter 11 process also require approval by the US Bankruptcy Court; and
- \$1.5 million plus accrued interest continues to be placed on a rolling three month term deposit.

Including the term deposit, I current hold \$2,093,602 in the administration bank accounts and a further sum of \$94,700 is held by US Counsel as a retainer.

Informal Creditors' Committee

On 15 March 2017, I held the third meeting of the informal committee of creditors. All of the topics noted above were discussed during the meeting.

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

Yours faithfully

National Bank of Anguilla (Private Banking and Trust) Ltd – Administrator Appointed

A handwritten signature in black ink, appearing to read 'W. Tacon', written in a cursive style.

William Tacon
Administrator

APPENDIX 1

National Bank of Anguilla (Private Banking & Trust) Ltd - Administrator Appointed Receipts and Payments Account From 22 February 2016 to 27 March 2017

	US\$'000s
Receipts	
Treasury Bills	2,851.4
Loan Receipts	920.7
Interest from Term Deposit	2.8
Total Receipts	3,775.0
Payments	
Legal Fees	(973.0)
Administrator's Fees	(551.4)
Property Insurance	(34.2)
Data Recovery Costs	(12.8)
Administrator's Expenses	(8.8)
Property Appraisal Fees	(2.7)
Bank Fees	(3.4)
Trading Expense	(0.3)
Total Payments	(1,586.7)
Funds Held	
Cash at Bank	590.8
Term Deposit	1,502.8
Retainer	94.7
Total	2,188.3