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By Post , Fax 01624 689399& By Email
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Dear Sirs

Kaupthing Singer & Friedlander (Isle of Man) Ltd (“KSF (IoM)”) - In Provisional Liquidation

Thank you for your letter of 29 January, which arrived on 4 February.

You say communications between Regulators are treated as strictly confidential and that you have put as much into the public domain as you feel able to “within the constraints applying”.

This response is unsatisfactory in a number of respects, not least of which is that you personally assured the Treasury Select Committee last week that you would indeed put further information into the public domain. The documents you agreed to provide include file notes of discussions between the FSC and FSA on Kaupthing and its subsidiaries between March and May 2008, and a letter you wrote to the FSA in May 2008 confirming the contents of those discussions. We presume that you do not intend to resile from this, and we ask you to provide us with a copy of your letter to the Treasury Select Committee enclosing those documents.

Further you confirmed to the Treasury Select Committee that the Isle of Man authorities would have no objection to the FSA disclosing its records of the discussions between you.

The subjects of those discussions (the Kaupthing banks) are all now to all intents and purposes defunct, and can have no objection to the provision of the information requested.

In view of the above, it is quite unjustifiable for the FSC to seek to hide behind undefined constraints which, insofar as they existed, have been waived.

Transparency

Your evidence before the Treasury Select Committee was that the FSC had a memorandum of understanding with the FSA and was accustomed to share information freely on matters of mutual concern with the FSA. There were discussions between March and May 2008 which left the FSC

with a clear understanding of the safeguards that the FSA had in place for KSF (UK) (you refer to these as “the assurances and the information we got from the FSA.”).

You said “if all the understandings we had, which are referred to in the evidence, had been adhered to I would not have thought that the London Bank would be in quite the predicament that it appears to be”. You then answered the question of whether if you had known then what you now think has happened to KSF (UK), you would have approved, or not raised any objection to, the transfer from the Isle of Man Company to KSF (UK). You said in answer to that question “if we had thought that the limits and so forth that are in evidence would be broken and not adhered to, and if you are saying in advance would we have gone along with it, the answer is no”.

The FSC has rightly complained that it was not told by the FSA of the plans to make the Transfer Order of 8 October, and that the Court papers have not been disclosed to the FSC. You said (and we agree) “it is extremely important for us to know why it went into administration from the point of view of beginning to make our own assessments as to what recoveries might come”. You added “clearly [the Liquidator Provisionally] wants as much information as he can get in order to facilitate his work”.

You will appreciate that the depositors whom we represent are similarly bemused by your refusal to provide them with the documents requested. They too must assess the prospect of recoveries and seek to determine where blame lies for the present situation. The Isle of Man Treasury expects them to make a decision on the proposed Scheme of Arrangement but they cannot reasonably be expected to do so while those who have relevant information refuse to provide it. The difference between the FSC and the depositors is that while both parties await the disclosure of information, many of the depositors have lost access to their entire life savings until this situation is resolved. There is therefore a degree of urgency which perhaps the FSC does not share.

You, Mr Brown, and Mr Shimmin have all described the Isle of Man as a transparent jurisdiction. Further, Mr Brown stated “our commitment to do the best for the depositors is well known”. The depositors ask you to put that transparency into practice and to provide the documents requested.

Yours faithfully

Edwin Coe LLP