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Ref: IRU 9/62

30 January 2009

Dear Mr Griffiths,

Freedom of Information Act 2000: Kaupthing Singer & Friedlander Isle of Man

Thank you for your enquiry dated 25 January 2009 requesting information under the Freedom of Information Act 2000 (the "Act").

2. You asked:

When will HM Treasury release the frozen funds of Kaupthing Singer & Friedlander Isle of Man?

3. Our first obligation under the Act is to declare whether we hold relevant information. Since the Treasury has not frozen the funds of Kaupthing Singer & Friedlander (Isle of Man), the answer in this case has to be that we do not. However, I hope it is helpful if I provide some context.

4. On 8 October 2008 the Financial Services Authority (FSA) determined that Kaupthing Singer and Friedlander UK (KSF UK) no longer met its threshold conditions, and was unlikely to be able to continue to meet its obligations to depositors. The FSA, in the exercise of its regulatory functions, concluded that KSF UK was in default for the purposes of the Financial Services Compensation Scheme. Following due legal process, KSF UK was put into administration. Ernst & Young LLP was appointed as the Administrator for KSF UK. As part of the administration process, as is usual, a moratorium is in place on the enforcement by creditors of claims against KSF UK. The administration process of KSF UK is a matter for the Administrators of KSF UK.

5. The first creditors' meeting was held on 1 December 2008 and at this meeting representation for the creditor committee was determined by the creditors. We are aware that the Provisional Liquidator for KSF IOM attended this meeting. The Provisional Liquidator has set out a report on the meeting, including the Administrators Statement of Proposals; this information can be found at the following link:

<http://www.kaupthingsingers.co.uk/Pages/4035>



INVESTOR IN PEOPLE

6. The problem with Icelandic banks did not originate in the UK, but within the Icelandic banking system. While the Government understands that many people have been affected by the failure of Icelandic banks, oversight of the KSF IOM affiliate is the responsibility of the Isle of Man's regulator. This company is not a subsidiary of KSF in the UK, but of an Icelandic company in the Kaupthing group. As such it was the responsibility of the Isle of Man's regulator to assess how the failure of the parent company in Iceland or the failure of any other company in the group would impact on the Isle of Man subsidiary and take the appropriate action. However, ultimately this was a failure that started in Iceland and ultimate responsibility for banks in Iceland rests with the Icelandic authorities.

7. Future action in relation to KSF IOM will be for the Isle of Man Authorities. However, we are aware that on 9 October 2008 the Isle of Man Court made a Provisional Liquidation Order in relation to KSF IOM. On 27 November 2008, following an application from the IOM Treasury, the Isle of Man High Court agreed to adjourn consideration of a winding-up order until 29 January 2009 so that alternatives can be further explored. Further information is available on the Isle of Man's website:

http://www.gov.im/cso/faq_gfs.xml

8. Arrangements for depositors in banks in the Isle of Man are a matter for the Government of the Isle of Man. Deposits with KSF IOM will be subject to the Isle of Man Deposit Compensation Scheme (DCS). Further information about the DCS, and eligibility for the scheme, is available on the Isle of Man Government's website at:

www.gov.im/fsc/investor/dep_comp.xml

Money transferred from KSF IoM to KSF UK

9. KSF IoM had deposits in the region of £532m with its sister company KSF UK at the time of KSF UK entering into administration. Under UK insolvency law, KSF IOM ranks like any other creditor - money that a customer has placed with a bank on deposit (including with a sister company) is a liability of the bank in which it has been placed. The customer only has a debt claim against the bank. If the bank chooses to place the money it has received on deposit from a customer with a second bank, the first bank is placing its own money with the second bank and the customers of the first bank do not have any direct legal claim to the deposit with the second bank. KSF IoM will have been fully aware of this. It could have chosen to put its money elsewhere and to have diversified the deposits it made rather than making a single large deposit, which concentrated the credit risk to which it was exposed. As it is, this sum is now subject to UK insolvency procedure and forms part of the administration estate.

10. The reason these funds cannot be repaid is because KSF UK has been placed into administration and, as part of that process, a moratorium on enforcement action by creditors is in place. Creditors of KSF UK, including KSF IOM, will be treated in accordance with the administration procedures and will be paid out via the administration in the normal way. As mentioned above, the administration process is a matter for the Administrators of KSF UK.

11. I hope this background information is helpful to you. If you have any queries about this letter, please contact me. It will be helpful to us if you remember to quote the reference number above in any future communications.



Paul Morran
Information Rights Unit

Your Rights to Complain under the FOI Act

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write within two months of the date of this letter to HM Treasury, Information Rights Unit, 2/S2, 1 Horse Guards Road, London SW1A 2HQ. email - public.enquiries@hm-treasury.gov.uk

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Treasury. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

